

WEDNESDAY, MAY 29, 2002

EIGHTY-NINTH LEGISLATIVE DAY

The House met at 10:00 a.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Father Joseph Breen, St. Edward Catholic Church, Nashville, Tennessee.

Representative Langster led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....98

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative S. Jones; illness.

MESSAGE FROM THE SENATE

May 23, 2002

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 808, 809, 811, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828 and 833; all adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

**Senate Joint Resolution No. 808** -- Memorials, Retirement - Dr. A. Frank Glass. by \*Cooper J.

**Senate Joint Resolution No. 809** -- Memorials, Recognition - James A. Dillon, Jr. by \*Cooper J.

**Senate Joint Resolution No. 811** -- Memorials, Death - Stanley Raymond Benz. by \*Rochelle, \*Trail.

**Senate Joint Resolution No. 814** -- Memorials, Recognition - Laurel Ensign-Simmons, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 815** -- Memorials, Recognition - Julie Phillips, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 816** -- Memorials, Death - Dr. George Bela Kehler. by \*Crowe.

**Senate Joint Resolution No. 817** -- Memorials, Death - Alicia Dunavant. by \*Jackson.

**Senate Joint Resolution No. 818** -- Memorials, Death - Robert Franklin Littleton. by \*Jackson.

**Senate Joint Resolution No. 819** -- Memorials, Academic Achievement - Sydney Renee Stockdale, Salutatorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 820** -- Memorials, Academic Achievement - Jacob Warren Melton, Valedictorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 821** -- Memorials, Academic Achievement - Jack Aaron Leonard, Salutatorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 822** -- Memorials, Academic Achievement - Ross Ballard Lumpkin, Valedictorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 823** -- Memorials, Academic Achievement - Meagan Duncan, Salutatorian, Stewart County High School. by \*Herron.

**Senate Joint Resolution No. 824** -- Memorials, Academic Achievement - Grayson Hansard, Valedictorian, Stewart County High School. by \*Herron.

**WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 825** -- Memorials, Academic Achievement - Matthew Jakes, Salutatorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 826** -- Memorials, Recognition - Cheryl Swinney. by \*Graves.

**Senate Joint Resolution No. 827** -- Memorials, Academic Achievement - Bethany Kay Thomas, Valedictorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 828** -- Memorials, Recognition - United States Army, 227th birthday. by \*Norris.

**Senate Joint Resolution No. 833** -- Memorials, Recognition - Pal's Sudden Service. by \*Ramsey.

**MESSAGE FROM THE SENATE**

**May 23, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 1958, 2038, 2072, 2087, 2091, 2093, 2190, 2355, 3089, 3129; also, Senate Joint Resolution(s) No(s). 813 for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED**

**May 23, 2002**

The Speaker signed the following: Senate Bill(s) No(s). 1958, 2038, 2072, 2087, 2091, 2093, 2190, 2355, 3089, 3129; also, Senate Joint Resolution(s) No(s). 813.

**MESSAGE FROM THE SENATE**

**May 23, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 835; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED**

**May 23, 2002**

The Speaker signed the following: Senate Joint Resolution(s) No(s). 835.

**ENROLLED BILLS**

**May 23, 2002**

The following bill(s) have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 1139, 2546, 2570, 2623, 2693, 2747, 2750, 2889, 2939, 3043, 3148, 3267, 3277, also, House Joint Resolution(s) No(s). 674, 735, 789, 836, 920, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089 and 1090.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED**

**May 23, 2002**

The Speaker signed the following: House Bill(s) No(s). 1139, 2546, 2570, 2623, 2693, 2747, 2750, 2889, 2939, 3043, 3148, 3267, 3277; also, House Joint Resolution(s) No(s). 674, 735, 789, 836, 920, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089 and 1090.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 23, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1139, 2546, 2570, 2623, 2693, 2747, 2750, 2889, 2939, 3043, 3148, 3267, 3277; also, House Joint Resolution(s) No(s). 674, 735, 789, 836, 920, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089 and 1090; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENROLLED BILLS**

**May 23, 2002**

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolution(s) No(s). 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349 and 350; and find same correctly enrolled and ready for the signature of the Speaker.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED  
May 23, 2002**

The Speaker signed the following: House Resolution(s) No(s). 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349 and 350.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**REPORT OF CHIEF ENGROSSING CLERK  
May 23, 2002**

The following bill(s) was/were transmitted to the Governor for his action: House Bill(s) No(s). 1139, 2546, 2570, 2623, 2693, 2747, 2750, 2889, 2939, 3043, 3148, 3267, 3277; also, House Joint Resolution(s) No(s). 674, 735, 789, 836, 920, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089 and 1090.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR  
May 24, 2002**

MR. SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 976, 977, 994, 996, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036 and 1078, with his approval.

JAY BALLARD, Counsel to the Governor.

**MESSAGE FROM THE SENATE  
May 28, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 93; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED  
May 28, 2002**

The Speaker signed the following: Senate Bill(s) No(s). 93.

**MESSAGE FROM THE SENATE**  
**May 29, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 810; adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

**\*Senate Joint Resolution No. 810** -- General Assembly, Directed Studies - Directs TACIR to study effects of extending collective bargaining rights to public employees in Tennessee. by \*Crutchfield, \*Dixon.

**PERSONAL ORDERS**

**RECOGNITION IN THE WELL**

Rep. McKee was recognized in the Well to introduce Marilyn and Jerry Rowden for remarks.

**RESOLUTION READ**

The Clerk read House Joint Resolution No. 725.

**House Joint Resolution No. 725** -- Memorials, Congratulations - Marilyn and Jerry Rowden, 2002 recipients of Joy Dirksen Baker Award. by \*McKee.

**INTRODUCTION OF RESOLUTIONS**

On motion, pursuant to **Rule No. 17**, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

**\*House Resolution No. 377** -- Memorials, Congress - Urges passage of legislation requiring Medicare program to cover all oral anti-cancer drugs. by \*Odom.

House Finance, Ways and Means Committee

**House Joint Resolution No. 1105** -- General Assembly, Confirmation of Appointment - Karen Dunavant, Registry of Election Finance. by \*McDaniel.

House State and Local Government Committee

**House Joint Resolution No. 1106** -- General Assembly, Confirmation of Appointment - Michael McCroskey, Registry of Election Finance. by \*McDaniel.

House State and Local Government Committee

**\*House Joint Resolution No. 1119** -- Highway Signs - "Governor Ray Blanton Memorial Highway", S.R. 22 in City of Adamsville, McNairy County. by \*Rinks.

House Finance, Ways and Means Committee

**SENATE JOINT RESOLUTIONS  
(Congratulatory and Memorializing)**

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for May 29, 2002:

**Senate Joint Resolution No. 808** -- Memorials, Retirement - Dr. A. Frank Glass. by \*Cooper J.

**Senate Joint Resolution No. 809** -- Memorials, Recognition - James A. Dillon, Jr. by \*Cooper J.

**Senate Joint Resolution No. 811** -- Memorials, Death - Stanley Raymond Benz. by \*Rochelle, \*Trail.

**Senate Joint Resolution No. 814** -- Memorials, Recognition - Laurel Ensign-Simmons, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 815** -- Memorials, Recognition - Julie Phillips, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 816** -- Memorials, Death - Dr. George Bela Kehler. by \*Crowe.

**Senate Joint Resolution No. 817** -- Memorials, Death - Alicia Dunavant. by \*Jackson.

**Senate Joint Resolution No. 818** -- Memorials, Death - Robert Franklin Littleton. by \*Jackson.

**Senate Joint Resolution No. 819** -- Memorials, Academic Achievement - Sydney Renee Stockdale, Salutatorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 820** -- Memorials, Academic Achievement - Jacob Warren Melton, Valedictorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 821** -- Memorials, Academic Achievement - Jack Aaron Leonard, Salutatorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 822** -- Memorials, Academic Achievement - Ross Ballard Lumpkin, Valedictorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 823** -- Memorials, Academic Achievement - Meagan Duncan, Salutatorian, Stewart County High School. by \*Herron.

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**Senate Joint Resolution No. 824** -- Memorials, Academic Achievement - Grayson Hansard, Valedictorian, Stewart County High School. by \*Herron.

**Senate Joint Resolution No. 825** -- Memorials, Academic Achievement - Matthew Jakes, Salutatorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 826** -- Memorials, Recognition - Cheryl Swinney. by \*Graves.

**Senate Joint Resolution No. 827** -- Memorials, Academic Achievement - Bethany Kay Thomas, Valedictorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 828** -- Memorials, Recognition - United States Army, 227th birthday. by \*Norris.

**Senate Joint Resolution No. 833** -- Memorials, Recognition - Pal's Sudden Service. by \*Ramsey.

**RESOLUTIONS LYING OVER**

On motion, the resolutions(s) listed was/were referred to the appropriate Committee:

**Senate Joint Resolution No. 679** -- General Assembly, Confirmation of Appointment - Flavius A. Barker, State Board of Education. by \*Elsea, \*Burks, \*Davis L, \*McNally, \*Williams, Sen., \*Carter, \*Cooper J.

Held on House Desk

**Senate Joint Resolution No. 680** -- General Assembly, Confirmation of Appointment - Richard Ray, State Board of Education. by \*Clabough, \*McNally.

Held on House Desk

**\*Senate Joint Resolution No. 810** -- General Assembly, Directed Studies - Directs TACIR to study effects of extending collective bargaining rights to public employees in Tennessee. by \*Crutchfield, \*Dixon.

House State and Local Government Committee



**SENATE BILLS TRANSMITTED**

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

**\*Senate Bill No. 602** -- State Employees - Clarifies that constitutional officers are eligible for state group insurance program. Amends TCA Title 8, Chapter 27. by \*Haun, \*Cooper J. (HB669 by \*Kisber)

**\*Senate Bill No. 1471** -- Alcoholic Offenses - Effective September 30, 2003, decreases from .10 percent to .08 percent blood alcohol content required to commit offense of DUI only if enactment of .08 percent DUI law is still federally required; repeals offense of adult DWI, but permits use of prior convictions for certain purposes; requires drug and alcohol assessment and treatment and use of ignition interlock device if person is convicted of second offense DUI and first conviction occurred within previous five years. Amends TCA Title 40, Chapter 33, Part 2 and Title 55, Chapter 10, Part 4. by \*Haun, \*Person. (HB884 by \*Head, \*Newton, \*Langster, \*Kent, \*Cole (Carter), \*Patton, \*Ford S)

**\*Senate Bill No. 1765** -- Education - Provides that maximum degree to be required for local director of vocational education is either masters degree in curriculum instruction or masters degree in supervision and administration. Amends TCA Title 49, Chapter 11. by \*Ramsey, \*Elsea. (HB1706 by \*Davis (Cocke))

**Senate Bill No. 2449** -- Courts, Juvenile - Clarifies that appeals from juvenile delinquency proceedings must be made to criminal court or court with criminal jurisdiction and appeals from unruly proceedings or dependent and neglect proceedings must be made to circuit court. Amends TCA Title 37, Chapter 1. by \*Miller J. (\*HB2209 by \*Bunch)

**HOUSE BILLS ON SECOND CONSIDERATION**

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

**House Bill No. 3286** -- Savannah -- Local Bill Held on House Desk

**House Bill No. 3287** -- Gatlinburg -- Local Bill Held on House Desk

**House Bill No. 3288** -- Pigeon Forge -- Local Bill Held on House Desk

**House Bill No. 3289** -- Jellico -- Local Bill Held on House Desk

**House Bill No. 3290** -- Tipton County -- Local Bill Held on House Desk

**House Bill No. 3291** -- Rutherford County -- Local Bill Held on House Desk

**House Bill No. 3292** -- Macon County -- Local Bill Held on House Desk

**REPORTS FROM STANDING COMMITTEES**

The committees that met on **May 23, 2002**, reported the following:

**COMMITTEE ON CALENDAR AND RULES**

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **May 29, 2002**: Senate Joint Resolution(s) No(s). 623 and House Bill(s) No(s). 451.

**REPORTS FROM STANDING COMMITTEES**

The committees that met on **May 28, 2002**, reported the following:

**FINANCE, WAYS AND MEANS**

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 3051, Senate Joint Resolution(s) No(s). 611, also House Bill(s) No(s). 2286, 253, 3116, and House Joint Resolution(s) No(s). 970 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

**COMMITTEE ON CALENDAR AND RULES**

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **May 29, 2002**: House Bill(s) No(s). 2942, 1706, 3051, 2286, 253, 3116, House Joint Resolution(s) No(s). 970.

The Committee further reports that Senate Bill(s) No(s). 2646 was passed out of the Committee on Calendar and Rules Committee and held on the Clerk's desk.

**CONSENT CALENDAR**

**House Bill No. 3285** -- Jackson - Subject to local approval, compounds cost of living allowance by applying it to current retirement benefit instead of base retirement benefit for members of certain City of Jackson retirement plans. Amends Chapter 150 of the Private Acts of 1943, as amended. by \*Kisber, \*Shaw. (SB3239 by \*Carter)

**House Joint Resolution No. 1112** -- Memorials, Recognition - Janey Walters, Mary Catherine Strobel Award for Direct Service Volunteer of the Year. by \*Sands.

**House Resolution No. 351** -- Memorials, Interns - Edward Means Baylor, IV. by \*Brown.

**House Resolution No. 352** -- Memorials, Interns - Scott Bouslog. by \*Brown.

**Senate Joint Resolution No. 808** -- Memorials, Retirement - Dr. A. Frank Glass. by \*Cooper J.

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**Senate Joint Resolution No. 809** -- Memorials, Recognition - James A. Dillon, Jr. by \*Cooper J.

**Senate Joint Resolution No. 811** -- Memorials, Death - Stanley Raymond Benz. by \*Rochelle, \*Trail.

**Senate Joint Resolution No. 814** -- Memorials, Recognition - Laurel Ensign-Simmons, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 815** -- Memorials, Recognition - Julie Phillips, 2001 President's Environmental Youth Award. by \*McNally.

**Senate Joint Resolution No. 816** -- Memorials, Death - Dr. George Bela Kehler. by \*Crowe.

**Senate Joint Resolution No. 817** -- Memorials, Death - Alicia Dunavant. by \*Jackson.

**Senate Joint Resolution No. 818** -- Memorials, Death - Robert Franklin Littleton. by \*Jackson.

**Senate Joint Resolution No. 819** -- Memorials, Academic Achievement - Sydney Renee Stockdale, Salutatorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 820** -- Memorials, Academic Achievement - Jacob Warren Melton, Valedictorian, Big Sandy High School. by \*Herron.

**Senate Joint Resolution No. 821** -- Memorials, Academic Achievement - Jack Aaron Leonard, Salutatorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 822** -- Memorials, Academic Achievement - Ross Ballard Lumpkin, Valedictorian, Camden Central High School. by \*Herron.

**Senate Joint Resolution No. 823** -- Memorials, Academic Achievement - Meagan Duncan, Salutatorian, Stewart County High School. by \*Herron.

**Senate Joint Resolution No. 824** -- Memorials, Academic Achievement - Grayson Hansard, Valedictorian, Stewart County High School. by \*Herron.

**Senate Joint Resolution No. 825** -- Memorials, Academic Achievement - Matthew Jakes, Salutatorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 826** -- Memorials, Recognition - Cheryl Swinney. by \*Graves.

**Senate Joint Resolution No. 827** -- Memorials, Academic Achievement - Bethany Kay Thomas, Valedictorian, East Robertson High School. by \*Graves.

**Senate Joint Resolution No. 828** -- Memorials, Recognition - United States Army, 227th birthday. by \*Norris.

**Senate Joint Resolution No. 829** -- Memorials, Interns - Sarah Katharine Elder. by \*Kyle, \*Clabough, \*Davis L, \*Trail, \*Rochelle.

**Senate Joint Resolution No. 832** -- Memorials, Academic Achievement - Jesse Longoria. by \*Person, \*Atchley, \*Blackburn, \*Burchett, \*Burks, \*Carter, \*Clabough, \*Cohen, \*Cooper J, \*Crowe, \*Crutchfield, \*Davis L, \*Dixon, \*Elsea, \*Ford J, \*Fowler, \*Graves, \*Harper, \*Haun, \*Haynes, \*Henry, \*Herron, \*Jackson, \*Kurita, \*Kyle, \*McNally, \*Miller J, \*Norris, \*Person, \*Ramsey, \*Rochelle, \*Trail, \*Wilder, \*Williams, Sen..

**Senate Joint Resolution No. 833** -- Memorials, Recognition - Pal's Sudden Service. by \*Ramsey.

**Senate Joint Resolution No. 834** -- Memorials, Professional Achievement - Mary Sue Turner, 2002 Memorial Award for Excellence in Teaching. by \*Person, \*Atchley, \*Blackburn, \*Burchett, \*Burks, \*Carter, \*Clabough, \*Cohen, \*Cooper J, \*Crowe, \*Crutchfield, \*Davis L, \*Dixon, \*Elsea, \*Ford J, \*Fowler, \*Graves, \*Harper, \*Haun, \*Haynes, \*Henry, \*Herron, \*Jackson, \*Kurita, \*Kyle, \*McNally, \*Miller J, \*Norris, \*Person, \*Ramsey, \*Rochelle, \*Trail, \*Wilder, \*Williams, Sen..

**Senate Joint Resolution No. 836** -- Memorials, Personal Achievement - Christopher S. Person. by \*Person, \*Atchley, \*Blackburn, \*Burchett, \*Burks, \*Carter, \*Clabough, \*Cohen, \*Cooper J, \*Crowe, \*Crutchfield, \*Davis L, \*Dixon, \*Elsea, \*Ford J, \*Fowler, \*Graves, \*Harper, \*Haun, \*Haynes, \*Henry, \*Herron, \*Jackson, \*Kurita, \*Kyle, \*McNally, \*Miller J, \*Norris, \*Person, \*Ramsey, \*Rochelle, \*Trail, \*Wilder, \*Williams, Sen..

Pursuant to **Rule No. 50**, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes .....	94
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winingham, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

REGULAR CALENDAR

**\*House Bill No. 3125** -- Gambling - Exempts pinball machines manufactured before 1980 from prohibition against gambling. Amends TCA Title 39, Chapter 17. by \*Armstrong. (SB3025 by \*Haun)

Further consideration of House Bill No. 3125 previously considered on April 24, 2002, at which time the bill failed to receive a Constitutional majority, May 8, 2002, May 15, 2002 and May 22, 2002, at which time it was reset for today's Calendar.

On motion, House Bill No. 3125 was moved to the heel of the Calendar.

**House Bill No. 646** -- Public Funds and Financing - Requires reporting by risk management section of state treasurer's office to general assembly on risk management issues affecting state of Tennessee. Amends TCA Title 9. by \*Kisber. (\*SB594 by \*Cooper J)

Further consideration of House Bill No. 646 previously considered on May 22, 2002, at which time it was reset for today's Calendar.

Rep. Kisber moved that House Bill No. 646 be passed on third and final consideration.

Rep. Head moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 646 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 9, Part 1, is amended by adding the following new section to be numbered accordingly:

Section 9-9-1\_\_\_. The state funding board is authorized to establish guidelines, rules or regulations with respect to certain agreements and contracts facilitating the issuance and sale of debt by governmental entities established by private act, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of the debt when such agreements and contracts have been authorized under the private act subject to guidelines of the state funding board.

SECTION 2. This act shall take effect on July 1, 2002, the public welfare requiring it.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

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Rep. Kisber moved that **House Bill No. 646**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	94
Noes .....	0
Present and not voting .....	2

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odum, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 94.

Representatives present and not voting were: Brooks, Cooper -- 2.

A motion to reconsider was tabled.

**\*House Bill No. 2502** -- Fire Prevention and Investigation - Requires commissioner of agriculture to develop and implement fee system for division of forestry's provision of fire protection on privately-owned forest lands, such fees to be directly assessed against respective private owners of forest land. Amends TCA Title 11, Chapter 4. by \*Kernell. (SB2928 by \*Kyle)

Further consideration of House Bill No. 2502 previously considered on May 22, 2002, at which time it was reset for today's Calendar.

Rep. Kernell moved that House Bill No. 2502 be reset for the Regular Calendar on July 4, 2002, which motion prevailed.

**\*Senate Bill No. 898** -- Education, Higher - Reclassifies "individual" as "person" under Tennessee Baccalaureate Education System Trust (BEST) Act as one that purchases tuition units or makes contributions to account. Amends TCA Title 49, Chapter 7, Part 8. by \*Haynes. (HB1318 by \*Davidson)

Further consideration of Senate Bill No. 898 previously considered on May 22, 2002, at which time the House substituted the Senate Bill for the House Bill, the House withdrew Amendment(s) No(s). 1 and reset the bill for today's Calendar.

Rep. Davidson moved that Senate Bill No. 898 be passed on third and final consideration.

**BILL HELD ON DESK**

After further debate, Rep. Davidson moved that Senate Bill No. 898 be held on the Clerk's desk, which motion prevailed.

**REGULAR CALENDAR, CONTINUED**

**\*House Bill No. 2431** -- Tort Liability - Extends from January 1, 2005, to January 1, 2007, date on which immunity for computer system failure due to date or time changes expires. Amends TCA Title 29, Chapter 20, by \*Brown. (SB2518 by \*Crutchfield)

Further consideration of House Bill No. 2431 previously considered on May 1, 2002, May 8, 2002 and May 22, 2002, at which time it was reset for today's Calendar.

On motion, House Bill No. 2431 was made to conform with **Senate Bill No. 2518**; the Senate Bill was substituted for the House Bill.

Rep. Brown moved that Senate Bill No. 2518 be passed on third and final consideration.

Rep. Buck requested that Judiciary Committee Amendment No. 1 be placed at the heel of the Amendments.

Rep. Buck requested that Amendment No. 2 be placed at the heel of the Amendments.

Rep. Buck moved adoption of Amendment No. 3 as follows:

**Amendment No. 3**

AMEND Senate Bill No. 2518 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 20, Part 1, is amended by adding the following language as a new appropriately designated section:

**§ 29-20-111.** Notwithstanding any provision of this chapter or any other law to the contrary, no claim may be brought, or any judgment entered against an employee of local government, who is acting in good faith and within the scope of his or her employment, arising from the employee's negligent act or omission in attempting to control another person's disorderly conduct or violent behavior that delays or disrupts, or threatens to delay or disrupt, a courtroom proceeding or that jeopardizes the safety of a judge, judicial employee, attorney, litigant, witness, or spectator who is present for a judicial proceeding.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Buck moved that Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Brown moved that **Senate Bill No. 2518**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

#### REMARKS

Rep. Buck requested that the following remarks be spread on the Journal:

#### THE LEGISLATIVE HISTORY ON HOUSE BILL NO. 2431 (SENATE BILL NO. 2518)

House Bill 2431, as amended, is designed to clarify the existing law to make it clear that the protections of the Governmental Tort Liability Act (the "GTLA") apply to employees of local government who are attempting to control another person's disorderly conduct or violent behavior that disrupts a courtroom proceeding.

Under T.C.A. Section 29-20-310(b), no claim may be brought against an employee or judgement entered against an employee for damages for which immunity of the governmental entity is removed by the GTLA. House Bill 2431 is not intended to alter this provision in any way, nor is it intended to extend in any fashion the liabilities of local governments under the existing provisions of the GTLA.

Instead, House Bill 2431 is intended to clarify that the existing immunity protections for local government employees under the GTLA also apply to courtroom personnel employed by local governments who are acting in good faith and within the scope of their employment and who commit a negligent act or omission in attempting to control another person's disorderly conduct or violent behavior that delays or disrupts, or threatens to delay or disrupt, a courtroom proceeding or that jeopardizes the safety of a judge, judicial employee, attorney, litigant, witness, or spectator who is present for a judicial proceeding.



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The provisions of House Bill 2431 are intended to apply to any pending or future actions against such courtroom personnel.

### REGULAR CALENDAR, CONTINUED

**House Bill No. 1036** -- Employees, Employers - Authorizes police department employee to request monthly payroll deduction for membership dues in employee association; requires political subdivision to comply with request if 10 percent of all employees belong to association. Amends TCA Title 7, Chapter 51, Part 2. by \*West. (\*SB817 by \*Davis L)

Further consideration of House Bill No. 1036 previously considered on May 8, 2002, May 15, 2002 and May 22, 2002, at which time it was reset for today's Calendar.

Rep. Bone moved that House Bill No. 1036 be reset for the Regular Calendar on July 4, 2002, which motion prevailed.

**Senate Bill No. 3139** -- Safety, Dept. of - Requires department to review driver license application and examination provisions in view of increased homeland security and report findings and recommendations to House Transportation Committees. Amends TCA Title 55, Chapter 50, Part 3. by \*Herron, \*Trail. (\*HB3186 by \*Maddox, \*Odom, \*Shepard, \*Turner (Davidson), \*Jones, S., \*Cole (Dyer), \*Harwell, \*Hood, \*Bowers)

Further consideration of Senate Bill No. 3139 previously considered on May 22, 2002, at which time the House substituted the House Bill for the Senate Bill, the House withdrew Amendment(s) No(s). 1 and was on the motion to adopt Amendment(s) No(s). 2.

Rep. Maddox requested that Senate Bill No. 3139 be moved to the heel of the Calendar.

**Senate Bill No. 3020** -- Sewage - Extends from two to four years department of environment and conservation pilot project study of advanced treatment systems (ATS); classifies as Class C misdemeanor each failure of ATS manufacturer to comply with operation and maintenance check requirements. Amends TCA Title 68, Chapter 221, Part 4. by \*Wilder. (\*HB2960 by \*Fitzhugh)

Further consideration of Senate Bill No. 3020 previously considered on May 8, 2002 and May 22, 2002, at which time the bill was reset for today's calendar. The bill was also considered on April 24, 2002 and May 1, 2002, at which time the Senate Bill was substituted for the House Bill and the House adopted Amendment(s) No(s). 1.

Rep. Bowers moved that Senate Bill No. 3020 be reset for the Regular Calendar on July 4, 2002, which motion prevailed.

**House Bill No. 451** -- Alcoholic Beverages - Clarifies that owner of establishment licensed to sell alcoholic beverages for consumption on premises is not required to have server permit. Amends TCA Title 57, Chapter 3 and Title 57, Chapter 4. by \*Kent. (\*SB272 by \*Haynes)

Rep. Kent moved that House Bill No. 451 be reset for the Regular Calendar on June 19, 2002, which motion prevailed.

**\*Senate Joint Resolution No. 623** -- Naming and Designating - Designates Gulf Tract in Cocke County as "Martha Sundquist State Forest". by \*Haun, \*Atchley, \*Blackburn, \*Burchett, \*Burks, \*Carter, \*Clabough, \*Cohen, \*Cooper J, \*Crowe, \*Crutchfield, \*Davis L, \*Dixon, \*Elsa, \*Ford J, \*Fowler, \*Graves, \*Harper, \*Haun, \*Haynes, \*Henry, \*Herron, \*Jackson, \*Kurita, \*Kyle, \*McNally, \*Miller J, \*Norris, \*Person, \*Ramsey, \*Rochelle, \*Trail, \*Wilder, \*Williams, Sen..

Rep. Davis (Cocke) moved to concur in Senate Joint Resolution No. 623.

On motion of Rep. Davis (Cocke), the resolution was concurred in.

A motion to reconsider was tabled.

**\*House Bill No. 3051** -- Real Estate Agents and Brokers - Requires brokers to forward license renewal applications and fees of affiliated brokers if broker is obligated by contract to do so or if affiliate provides application and fee to broker for such purpose. Amends TCA Title 62, Chapter 13. by \*Davis (Cocke). (SB3100 by \*Clabough)

Rep. Davis (Cocke) moved that House Bill No. 3051 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 3051 by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-13-102, is amended by adding the following as a new, appropriately designated item:

( ) "Acquisition agent" means a person who by means of telephone, mail, advertisement, inducement, solicitation or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program;

SECTION 2. Tennessee Code Annotated, Section 62-13-301, is amended by deleting the language "or time-share salesperson, as defined in § 62-13-102," and substituting the language "time-share salesperson or acquisition agent, as defined in § 62-13-102," and by deleting the language "or time-share salesperson, as provided in this chapter," and substituting instead the language "time-share salesperson or acquisition agent, as provided in this chapter,".

SECTION 3. Tennessee Code Annotated, Section 62-13-110, is amended by deleting the language "or time-share salesperson without first obtaining a license" and substituting instead the language "time-share salesperson or acquisition agent without first obtaining a license" in subsection (a) and (b).

SECTION 4. Tennessee Code Annotated, Section 62-13-112(a), is amended by adding the following language at the end of the subsection:

The requirements of this section shall not apply to acquisition agents.

SECTION 5. Tennessee Code Annotated, Section 62-13-303, is amended by adding the following as a new subsection thereto:

(k) Any person who desires an acquisition agent license shall submit an application for examination and license to the commission on the prescribed form.

(1) The application shall be accompanied by:

(A) The fees specified in § 62-13-308 for examination and license;

(B) Proof satisfactory to the commission that the applicant is at least eighteen (18) years of age; and

(C) Proof satisfactory to the commission that the applicant is of good moral character.

(2) Compliance by an acquisition agent with the licensing requirements of this section shall constitute compliance with the registration requirements contained in § 66-32-139.

SECTION 6. Tennessee Code Annotated, Section 62-13-304(a), is amended by deleting subdivision (7)(D) in its entirety and by adding the following as a new item thereto:

(8)(A) The examination for an acquisition agent license shall be the same as the examination administered for a time-share salesperson license.

(B) The minimum passing grade for an acquisition agent license examination shall be seventy percent (70%).

(C) An application for the acquisition agent license examination must be received by the commission at least ten (10) days before the examination date on which the applicant wishes to be examined.

SECTION 7. Tennessee Code Annotated, Section 62-13-304(b), is amended by deleting the language "or time-share salesperson" and substituting instead the language "time-share salesperson or acquisition agent".

SECTION 8. Tennessee Code Annotated, Section 62-13-307, is amended by deleting the second sentence in its entirety and replacing it with the following:

All documentation and fees which are a prerequisite or condition to the renewal of a license or registration shall be delivered to the commission no later than sixty (60) days prior to the expiration date of the license. Except in accordance with the provisions of § 62-13-319, broker, affiliate broker, and time-share salesperson licenses may not be renewed or reinstated unless, at least sixty (60) days prior to expiration of the license, the commission receives proof of timely compliance with all education requirements and errors and omissions insurance requirements set forth in this chapter or in any rules promulgated pursuant to § 62-13-203.

SECTION 9. Tennessee Code Annotated, Section 62-13-319(a), is amended by deleting the language "or time-share salesperson" and substituting instead the language "time-share salesperson or acquisition agent" and by adding the language "or to comply with any prerequisite or condition to licensure or renewal" between the phrase "renewal or retirement fee" and the phrase "may be reinstated" in the first sentence.

SECTION 10. Tennessee Code Annotated, Section 62-13-319(a)(2), is amended by adding the words "or such fee as the commission may prescribe pursuant to the rulemaking authority contained in § 62-13-203" at the end of the sentence before the period.

SECTION 11. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, Commerce Committee Amendment No. 1 was adopted.

Rep. U. Jones moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 3051 by deleting the definition of "acquisition agent" in Section 1, as amended, and substituting instead the following:

( ) "Acquisition Agent" means a person who by means of personal inducement, solicitation, or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program; provided, however, that 'acquisition agent' shall not include any person, or his or her employee, who engages in any such activity solely on real property owned or leased by such person on or within the premises of a hotel, motel, private resort or lodging rental office or phone or mail solicitation business.

AND FURTHER AMEND by deleting Sections 8, 9 and 10, as amended, and by substituting instead the following language as a new Section 8, renumbering the effective date section accordingly:

SECTION 8. Tennessee Code Annotated, Section 62-13-319(a), is amended by deleting the language "or time-share salesperson" and by substituting instead the language "time-share salesperson or acquisition agent".

On motion, Amendment No. 2 was adopted.

Rep. Davis (Cocke) moved that **House Bill No. 3051**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....94  
Noes .....0

Representatives voting aye were: Armstrong, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

## RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 11:30 a.m.

## SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Resolution No. 358:** Rep(s). Fowlkes as prime sponsor(s).

**House Bill No. 253:** Rep(s). Pleasant, Todd, Wood, Bittle, Hargett, Buttry and Montgomery as prime sponsor(s).

**House Bill No. 2286:** Rep(s). Bone, White, McMillan, Sands, Lewis, Fitzhugh, Winningham, Buck, Hood, Bowers, Armstrong, Maddox, Caldwell, Naifeh, Vincent, Sharp, Bittle, Turner (Hamilton), Ridgeway, Shepard, Pinion, Montgomery, Wood, Buttry, Hagood, Sargent, McDonald, Newton, Shaw, Curtiss, Phelan, Fowlkes, Tindell and Fraley as prime sponsor(s).

**House Bill No. 2450:** Rep(s). Hagood as prime sponsor(s).

**House Bill No. 2789:** Rep(s). Todd, Bowers, Brooks, Naifeh, Newton, Brown, Pinion, L. DeBerry, Head, Givens, Chumney, Montgomery, McDaniel, Cole (Carter), Vincent, Kisber, Scroggs, Kent, Bittle, Wood, Hagood, Sharp, Hargett, Pleasant, U. Jones, Dunn, Sargent, Buttry, Davis (Washington), Lewis, Turner (Hamilton), Ridgeway, Black, Beavers, Stanley, Rowland, Bunch, Goins, Curtiss, Phelan, Fowlkes, Tindell and Fraley as prime sponsor(s).

**House Bill No. 3116:** Rep(s). Kisber as prime sponsor(s).

**MESSAGE FROM THE SENATE**  
**May 29, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 812, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850 and 851; all adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

**Senate Joint Resolution No. 812** -- Memorials, Recognition - Rebecca Lynch Ferrar. by \*Rochelle, \*McNally, \*Kyle, \*Herron.

**Senate Joint Resolution No. 837** -- Memorials, Public Service - Lola Woolridge. by \*Jackson, \*Rochelle, \*Kyle, \*Henry, \*Harper.

**Senate Joint Resolution No. 838** -- Memorials, Interns - Jenica Shiri Curd. by \*Kurita.

**Senate Joint Resolution No. 839** -- Memorials, Interns - Bethany Schree Tramel. by \*Haynes, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 840** -- Memorials, Academic Achievement - Tara Renee Newsom, Salutatorian, Gleason High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 841** -- Memorials, Academic Achievement - Kristi Renae Todd, Valedictorian, Gleason High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 842** -- Memorials, Academic Achievement - Savannah Lynn Grooms, Salutatorian, Greenfield High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 843** -- Memorials, Academic Achievement - Lindsey Brooke Box, Valedictorian, Greenfield High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 844** -- Memorials, Academic Achievement - Toria Argo, Salutatorian, Westview High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 845** -- Memorials, Academic Achievement - Adleen Crapo, Valedictorian, Westview High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 846** -- Memorials, Academic Achievement - T. J. Rehmer, Salutatorian, Union City High School. by \*Herron, \*Cohen, \*Rochelle.

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**Senate Joint Resolution No. 847** -- Memorials, Academic Achievement - Amber Nicole Becton, Valedictorian, Union City High School. by \*Herron, \*Cohen, \*Rochelle.

**Senate Joint Resolution No. 848** -- Memorials, Academic Achievement - Toni Marie Little, Valedictorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 849** -- Memorials, Academic Achievement - Kimberly Michelle Lindsey, Salutatorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 850** -- Memorials, Academic Achievement - Hannah Leigh Vise, Valedictorian, Riverside High School. by \*Herron.

**Senate Joint Resolution No. 851** -- Memorials, Academic Achievement - Rachel Jean Haggard, Salutatorian, Decatur County Riverside High School. by \*Herron.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to request the return of Senate Bill(s) No(s). 1201 for further consideration.

RUSSELL A. HUMPHREY, Chief Clerk.

**REPORTS FROM STANDING COMMITTEES**

The committees that met on **May 29, 2002**, reported the following:

**FINANCE, WAYS AND MEANS**

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 2789 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

**COMMITTEE ON CALENDAR AND RULES**

Immediately following the meeting of the Finance, Ways and Means Committee, the Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **May 29, 2002**: House Bill(s) No(s). 2789.

**RECESS EXPIRED**

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

**ROLL CALL DISPENSED WITH**

On motion of Rep. Davidson, the roll call was dispensed with.

REGULAR CALENDAR, CONTINUED

**\*House Bill No. 2286** -- TennCare - Requires comptroller's annual actuarial study to address provider reimbursement rates issues. Amends TCA Title 71, Chapter 5. by \*Kisber. (SB2624 by \*Cooper J)

Rep. Kisber moved that House Bill No. 2286 be passed on third and final consideration.

Rep. Buck moved adoption of Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 2286 By adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_ Notwithstanding any provision of this act or law to the contrary, neither the governor or the TennCare bureau shall have any authority to abolish or suspend the system of capitation payments to MCOs unless the general assembly consents by adoption in both houses of a joint resolution approving such abolition or suspension of the system of capitation payments to MCOs.

Rep. Caldwell moved that Amendment No. 1 be tabled, which motion failed by the following vote:

Ayes .....	44
Noes .....	50
Present and not voting .....	1

Representatives voting aye were: Armstrong, Arriola, Bone, Bowers, Briley, Brooks, Caldwell, Cole (Carter), Cole (Dyer), Cooper, Davis (Cocke), DeBerry L, Fitzhugh, Fowlkes, Givens, Hargrove, Head, Jones U, Kernell, Kisber, Langster, Lewis, Maddox, McDaniel, McKee, McMillan, Miller, Montgomery, Phelan, Pruitt, Ridgeway, Rinks, Roach, Sands, Shaw, Shepard, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, White, Whitson, Mr. Speaker Naifeh -- 44.

Representatives voting no were: Baird, Beavers, Bittle, Black, Boyer, Buck, Bunch, Buttry, Casada, Chumney, Clem, Curtiss, Davidson, Davis (Washington), Dunn, Ferguson, Ford, Garrett, Godsey, Goins, Hagood, Hargett, Harwell, Hood, Johnson, Kent, McCord, McDonald, Mumpower, Newton, Odom, Patton, Phillips, Pinion, Pleasant, Rhinehart, Rowland, Sargent, Scroggs, Sharp, Stanley, Tidwell, Todd, Turner (Davidson), Vincent, West, Westmoreland, Windle, Winningham, Wood -- 50.

Representatives present and not voting were: Fraley -- 1.

Rep. McMillan requested that Amendment No. 1 be placed at the heel of the Amendments, which motion prevailed.

Rep. Kisber requested that Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 be placed at the heel of the Amendments.



Rep. McMillan moved adoption of Amendment No. 3 as follows:

**Amendment No. 3**

AMEND House Bill No. 2286 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The title of this act is, and may be cited as, "The TennCare Reform Act of 2002".

SECTION 2. Tennessee Code Annotated, Section 71-5-106, is amended by adding the following as new subdivisions:

(l) Not later than January 1, 2003, the bureau of TennCare or its designee shall verify the eligibility for TennCare of all enrollees on annual basis.

(m) To the extent permitted by federal law, the state may impose a reasonable fee for costs of eligibility determinations for applicants applying for medical assistance as part of the eligible expansion population under the TennCare waiver.

(n) In the TennCare waiver expansion population, except for persons medically eligible as uninsurable persons, enrollment shall not be permitted for individuals from households with incomes of greater than two hundred fifty percent (250%) of federal poverty levels.

(o) Except as may be required by federal law, after the effective date of this act, no person eighteen (18) years of age or older shall be eligible to receive TennCare benefits as a part of the waiver's expansion population if such person is eligible to participate in a group insurance plan offered through an employer, a family member's employer, a professional association or school.

(p) Not later than January 1, 2003, all determinations of eligibility for persons medically eligible as uninsurable in the TennCare waiver's expansion population shall be made on the basis of health condition based upon a review of medical records.

SECTION 3. Tennessee Code Annotated, Section 71-5-102, is amended by designating the existing language of the section as subsection (a) and by adding the following as a new subsection (b):

(b)(1) Except as may be required by federal law or regulation, it is hereby declared to be the public policy of the state of Tennessee that participation in the TennCare program, or its successor programs, is not an entitlement and is conditional upon, among other things, specific appropriations for the program.

(2) Not less than annually, the governor shall recommend and the general assembly may, through provisions of the general appropriations act, prioritize the funding for the TennCare program in a manner which specifies that funds are available to:

(A) continue coverage for enrollees currently in the program;

(B) extend coverage to potential new enrollees, or categories thereof, at current, higher or lower income levels; or,

(C) withdraw coverage from all enrollees not eligible for Medicaid.

(c) Continuation, extension and withdrawal of coverage for enrollees in the TennCare program shall be determined in accordance with such priorities, if any, established by the general assembly in the general appropriations act.

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as new sections:

Section 71-5-192. On or before January 1, 2004, a comprehensive, integrated information management system will be operational for the bureau of TennCare. Not less frequently than quarterly, the office of information resources in the department of finance and administration shall provide progress assessments concerning such system to the information systems council (ISC) and the fiscal review committee.

Section 71-5-193. There shall be established a TennCare advisory board, appointed by the governor, comprised of not less than twelve (12) nor more than fifteen (15) individuals who shall be representative of health care providers, business leaders and health care consumers. The board shall provide advice and direction to the bureau of TennCare in the management of the TennCare program. At least quarterly, the bureau of TennCare and the department of commerce and insurance shall present to the board an update on compliance by participating managed care organizations with statutory and contractual requirements, including, but not limited to, prompt payment of claims, network adequacy and provision of non-network essential services. The governor shall determine the terms and organizational structure of the board and will strive to insure racial and gender diversity.

SECTION 5. Any costs associated with the implementation of this act shall be paid from existing funds appropriated to the TennCare program.

SECTION 6. Tennessee Code Annotated, Section 71-5-110, is amended by adding the following language at the end of subsection (b):

To the extent permitted by federal law, the application of a self-employed individual for medical assistance as a part of the TennCare program shall include a copy of the individual's most recent federal income tax return.

SECTION 7. Tennessee Code Annotated, Section 71-5-118, is amended by adding the following as a new subsection (g):

(g) The bureau of TennCare shall establish, through its Program Integrity Unit, a system to randomly investigate persons involved in the medical assistance program to monitor for violations of subsection (b) by such persons. The Program Integrity Unit shall investigate applicants, employers, providers and other persons involved in the medical assistance program. Violations of subsection (b) shall be regarded as TennCare fraud and the Program Integrity Unit shall refer appropriate cases of fraud to any appropriate law enforcement agencies, including the Tennessee bureau of investigation, for appropriate action. The Program Integrity Unit shall report concerning the activities of the investigative program to the house and senate judiciary committees on or before January 30th of each year.

SECTION 8. (a) Not later than September 1, 2002, the Fiscal Review Committee, in consultation with the bureau of TennCare and the Select Oversight Committee on TennCare, shall issue a request for information to potential contractors for eligibility determinations and re-verifications under the TennCare program. It is the legislative intent that information from interested potential contractors be received by October 15, 2002.

(b) The Fiscal Review Committee, in consultation with the Bureau of TennCare and the Select Oversight Committee on TennCare, shall evaluate the responses from potential contractors and shall, no later than January 1, 2003 make a recommendation to the Governor, the commissioner of finance and administration, the comptroller of the treasury and the finance ways and means committees of the senate and house of representatives, relative to whether eligibility and re-verification services should be contracted and procured through competitive proposals.

(c) If such recommendation is in favor of contracting, it is the legislative intent that the request for competitive proposals be issued not later than March 1, 2003 and the resulting contract be effective no later than July 1, 2003.

SECTION 9. Tennessee Code Annotated, Section 71-5-116, is amended by adding the following amendatory language at the end of subsection (c):

To facilitate and enhance compliance with this subsection, the clerk of each probate court shall promptly notify the TennCare Bureau, in a format to be specified by the Bureau, of the filing of any petition to administer the estate of a decedent who, at the time of death, was fifty-five (55) years of age or older. Such notification shall include the decedent's name, date of birth, social security number and summary financial information regarding the decedent's estate.

SECTION 10. Tennessee Code Annotated, Section 71-5-116, is further amended by adding the following amendatory language as a new subsection to be appropriately designated:

Any nursing facility that receives payment for providing services under this chapter shall promptly notify the TennCare Bureau, in a format to be specified by the Bureau, of the death of any resident whose nursing facility care was reimbursed, either wholly or in part, under this part, and who was fifty-five (55) years of age or older at the time such services were rendered. Such notification shall include the deceased resident's name, date of birth, social security number, the dates of nursing facility services reimbursed under this part, and the amounts of such reimbursement received by the facility.

SECTION 11. Tennessee Code Annotated, Section 71-5-118, is amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) Without regard to any other civil or criminal liability that might attach, by operation of this section or any other law, to an enrollee or applicant's action in obtaining medical assistance or any assistance under this part, to which such person is not entitled, the TennCare Bureau shall have an administrative remedy for the recovery of the amount of any medical assistance benefits or payments improperly paid as a result of any misrepresentation made by such person, to the extent that such amount has not otherwise been recovered by the Bureau. The Bureau shall also have a right to recover in such administrative proceedings its reasonable costs and attorneys' fees, as well as interest on the amount owed by the person, calculated from the date that medical assistance was improperly paid. Any action against such person shall be treated as a contested case in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In an administrative action under this subsection, the Bureau shall show that the amount sought to be recovered was paid in the form of medical assistance as a result of material misrepresentation by the person against whom recovery is sought, but the Bureau need not show that such misrepresentation was intentional or fraudulent.

SECTION 12. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) There is established within the criminal investigation division of the Tennessee Bureau of Investigation a special TennCare fraud unit. The unit shall work in cooperation with the Bureau of TennCare, the Department of Health, Department of Human Services, federal agencies, United States attorneys general, district attorneys general and other law enforcement agencies. The unit is authorized to investigate TennCare provider and enrollment fraud; Medicare fraud; patient abuse in facilities receiving TennCare funding; patient abuse and exploitation in board and care facilities; exploitation and fraudulent use of government retirement and disability funds; and compliance with title 71, chapter 5, sections 106(f) and (g), 117 and 118. A summary of the unit's work shall be included in the bureau's annual report and shall be submitted annually to the Judiciary Committees of the General Assembly.

SECTION 13. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as a new subsection to be appropriately designated:

( ) The TennCare Bureau shall report annually in writing to the Judiciary Committees of the General Assembly regarding its implementation of the estate recovery and fraud and abuse provisions of this chapter.

SECTION 14. Tennessee Code Annotated, Section 71-5-118, is further amended by adding the following amendatory language as anew subsection to be appropriately designated:

( ) All applications for medical assistance under this part, and all applications for reverification of eligibility to receive such assistance, shall contain a warning, in easily readable language, regarding the state recovery provisions, as well as the administrative, civil and criminal liability provisions of this chapter.

SECTION 15. This act shall take effect on July 1, 2002, the public welfare requiring it.

Rep. Rhinehart moved that House Bill No. 2286 be reset for the Regular Calendar on June 5, 2002.

Rep. Kisber moved that the motion to reset House Bill No. 2286 to June 5, 2002 be tabled, which motion prevailed by the following vote:

Ayes .....	62
Noes .....	31

Representatives voting aye were: Armstrong, Arriola, Bone, Bowers, Boyer, Briley, Buck, Caldwell, Chumney, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davis (Cocke), DeBerry L, Ferguson, Fitzhugh, Fowlkes, Fraley, Garrett, Givens, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McDonald, McKee, McMillan, Miller, Newton, Odom, Overbey, Phelan, Phillips, Pinion, Pruitt, Ridgeway, Rinks, Roach, Sands, Scroggs, Shaw, Shepard, Tidwell, Tindell, Turner (Hamilton), Vincent, Walker, West, White, Whitson, Windle, Winningham, Mr. Speaker Naifeh -- 62.

Representatives voting no were: Baird, Beavers, Bittle, Black, Brooks, Brown, Bunch, Casada, Clem, DeBerry J, Dunn, Ford, Godsey, Goins, Hagood, Hargett, McCord, McDaniel, Montgomery, Patton, Pleasant, Rhinehart, Rowland, Sargent, Sharp, Stanley, Towns, Turner (Shelby), Turner (Davidson), Westmoreland, Wood -- 31.

Rep. Newton moved the previous question on Amendment No. 3, which motion prevailed.

On motion, Amendment No. 3 was adopted.

Rep. Kernell moved adoption of Amendment No. 4 as follows:

**Amendment No. 4**

AMEND House Bill No. 2286 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, Amendment No. 4 was adopted.

Rep. Buck moved adoption of Amendment No. 5 as follows:

**Amendment No. 5**

AMEND House Bill No. 2286 By adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. Notwithstanding any provision of this act or law to the contrary, neither the governor or the TennCare bureau shall have any authority to abolish or suspend the system of capitation payments to MCOs unless such abolition or suspension of the system of capitation payments to MCOs is approved by the TennCare oversight committee.

Rep. Todd moved the previous question on Amendment No. 5, which motion prevailed.

On motion, Amendment No. 5 was adopted.

Rep. Bunch moved adoption of Amendment No. 6 as follows:

**Amendment No. 6**

AMEND House Bill No. 2286 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

71-5-1 \_\_\_. A request for an extension of the federal waiver under which the entire TennCare program operates or an extension for any part of the TennCare program may not be submitted to the United States department of health and human services unless the general assembly has approved the submission of any such waiver extension by joint resolution.

Rep. Caldwell moved that Amendment No. 6 be tabled, which motion failed by the following vote:

Ayes .....42  
Noes.....52

Representatives voting aye were: Armstrong, Arriola, Bone, Bowers, Briley, Buck, Caldwell, Chumney, Cole (Carter), Cole (Dyer), Davidson, Davis (Cocke), DeBerry L, Ferguson, Fitzhugh, Fowlkes, Givens, Head, Kernell, Kisber, Lewis, Maddox, McKee, McMillan, Miller, Patton, Phelan, Phillips, Pinion, Ridgeway, Rinks, Roach, Shaw, Shepard, Turner (Hamilton), Turner (Shelby), Walker, White, Whitson, Windle, Winningham, Mr. Speaker Naifeh -- 42.

Representatives voting no were: Baird, Beavers, Bittle, Black, Boyer, Brooks, Brown, Bunch, Buttry, Casada, Clem, Cooper, Curtiss, Davis (Washington), DeBerry J, Dunn, Ford, Fraley, Garrett, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Kent, McCord, McDonald, Montgomery, Mumpower, Newton, Odom, Overbey, Pleasant, Pruitt, Rhinehart, Rowland, Sands, Sargent, Scroggs, Sharp, Stanley, Tidwell, Tindell, Todd, Turner (Davidson), Vincent, West, Westmoreland, Wood -- 52.

After further debate, Rep. Wood moved the previous question on Amendment No. 6, which motion failed by the following vote:

Ayes .....52  
Noes.....36  
Present and not voting .....2

Representatives voting aye were: Baird, Beavers, Bittle, Black, Boyer, Brooks, Buck, Bunch, Buttry, Casada, Clem, Cole (Dyer), Curtiss, Davis (Washington), Davis (Cocke), Dunn, Ferguson, Ford, Fraley, Garrett, Godsey, Goins, Hagood, Hargett, Harwell, Hood, Johnson, Kent, McCord, McDonald, Montgomery, Mumpower, Odom, Overbey, Patton, Pinion, Pleasant, Rhinehart, Rowland, Sargent, Scroggs, Sharp, Stanley, Tidwell, Todd, Turner (Davidson), Vincent, West, Westmoreland, Whitson, Windle, Wood -- 52.

## WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY

Representatives voting no were: Bone, Bowers, Briley, Caldwell, Cole (Carter), Cooper, Davidson, DeBerry L, Fitzhugh, Fowlkes, Givens, Hargrove, Jones U, Kernell, Kisber, Langster, Lewis, Maddox, McMillan, Miller, Phelan, Phillips, Ridgeway, Rinks, Roach, Sands, Shaw, Shepard, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, White, Winningham, Mr. Speaker Naifeh -- 36.

Representatives present and not voting were: Armstrong, Brown -- 2.

Rep. McMillan requested that House Bill No. 2286 be moved to the heel of the Calendar.

### BILL RETURNED

Rep. U. Jones requested that Senate Bill No. 1201 be returned to the Senate, which motion prevailed.

### REGULAR CALENDAR, CONTINUED

**\*House Bill No. 253** -- Budget Procedures - Creates performance-based budget review pilot project. Amends TCA Title 9, Chapter 4 and Title 13, Chapter 5. by \*Scroggs, \*Kisber, \*Kent. (SB1504 by \*Rochelle)

Rep. Scroggs requested that House Bill No. 253 be moved to the heel of the Calendar.

**\*House Joint Resolution No. 970** -- Naming and Designating - Names new Tennessee Fire Service and Codes Enforcement Academy in Bedford County in honor of Representative Clarence "Pete" Phillips. by \*Turner (Davidson).

Rep. Turner (Davidson) moved that House Joint Resolution No. 970 be adopted.

Rep. Head moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

#### Amendment No. 1

AMEND House Joint Resolution No. 970 by adding the following new resolving clause immediately preceding the final resolving clause:

BE IT FURTHER RESOLVED, That the cost of such signs shall be allocated from existing funds within the capital projects reserve fund.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. Turner (Davidson) moved that **House Joint Resolution No. 970**, as amended, be adopted, which motion prevailed.

A motion to reconsider was tabled.



**\*House Bill No. 2942** -- Taxes, Sales - Deletes all exemptions and special rates except for isolated sales between persons not regularly engaged in business and medical exemptions; taxes all services, except medical services, for state purposes only not to be taxed under local option act; sets state rate at 3.7 percent. Amends TCA Title 67. by \*McKee, \*Newton, \*Ford S, \*Patton, \*Roach, \*Boyer. (SB3004 by \*Cooper J)

Further consideration of House Bill No. 2942 previously considered on May 15, 2002, at which time the House withdrew Amendment(s) No(s). 1 and adopted Amendment(s) No(s). 2.

Rep. McKee moved that House Bill No. 2942, as amended, be passed on third and final consideration.

Rep. McKee moved adoption of Amendment No. 3 as follows:

**Amendment No. 3**

AMEND House Bill No. 2942 by deleting all provisions of the bill following the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-102(2), is amended by deleting the language therein in its entirety and substituting instead the following:

"Business" includes any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect. "Business" includes occasional and isolated sales and transactions involving the transfer of aircraft, vessels, or motor vehicles between corporations or other business entities and their members or stockholders. "Business" includes transactions caused by the merger, consolidation, or reorganization of corporations or other business entities. "Business" also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such aircraft which are so based shall constitute evidence thereof. "Business" does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by, or purchased from, a person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. "Business" shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles (which terms include trailers and special motor equipment sold in conjunction therewith), as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are: married, lineal relatives or spouses of lineal relatives, or siblings;

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

Section \_\_\_\_\_. There is exempt from the tax levied by this chapter:

(1) Any sale or use of any article, manufactured or the produce of this state exempt from taxation pursuant to Section 30 of Article II of the Constitution of Tennessee;

(2) Any sale or use which would otherwise be taxable pursuant to the provisions of this chapter but which would impose a tax which is invalid either under the commerce clause or the due process clause of the Constitution of the United States;

(3) The following services:

(A) Educational Services

(i) Educational services (for-profit)

(ii) Educational services (non-profit)

(B) Finance, Insurance and Real Estate

(i) Investment banking, securities brokerage, and related

(ii) Insurance agents and related

(C) Health Care and Social Services (for profit)

(i) Physicians and dentists

(ii) Other health practitioners

(iii) Hospitals

(iv) Nursing and residential care facilities

(v) Outpatient care centers

(vi) Medical and diagnostic laboratories

(vii) Other selected health services

(viii) Social and community services

(D) Health Care and Social Services (non-profit)

- (i) Hospitals
  - (ii) Nursing and residential care facilities
  - (iii) Outpatient care centers
  - (iv) Other selected health services
  - (v) Social and community services
- (E) Media Advertising Sales
- (i) Newspaper advertising
  - (ii) Radio advertising
  - (iii) Television advertising (broadcast and cable)
- (F) Professional and Technical Services
- (i) Management, scientific and technical consulting
  - (ii) Scientific research and development (profit and non-profit)
- (G) Transportation Services
- (i) Couriers and messengers
  - (ii) Truck transportation (local)
  - (iii) Other transportation; and
- (H) Personal Services
- (i) Death care services

(4) The costs, other than material costs, associated with the construction of commercial or industrial improvements to real property over one million dollars (\$1,000,000) on a single project.

SECTION 3. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following new subdivisions:

( ) "Medical services" means any service obtained at, or through, a hospital, nursing home, or from any health care practitioner required to be licensed under Title 63, except veterinarians, athletic trainers, and electrologists.

( ) "Service" means all activities engaged in for other persons for a consideration, other than medical services, when the primary objective of the purchaser is the receipt of the benefit (if any) of the activity performed, as distinguished from the receipt of property. In determining what is a service, the intended use or stated objective of the contracting parties shall not necessarily be controlling. "Service" does not include, during the period that § 56-4-218 remains in effect, the sale or servicing (by any domestic or foreign insurance company or any broker or agent or employee of such company), of any insurance policy pertaining to life, fire, marine, fidelity, surety, casualty, liability or any other form of insurance for which premium taxes are paid pursuant to Title 56, Chapter 4, Part 2. "Service" does not include any activity performed for consideration, directly or indirectly, for a federal, state, or local governmental entity.

SECTION 4. Tennessee Code Annotated, Section 67-6-102(24), is amended by deleting subdivision (E) (iv) in its entirety, and is further amended by deleting subdivision (F) (i), (ii), and (iv) – (viii) and substituting instead the following, and renumbering the remaining subdivisions accordingly:

(F)(i) "Retail sale," "sale at retail" and "retail sales price" includes any service, and such service is subject to tax under this chapter, when that service is performed in Tennessee for a consideration. It is the legislative intent that all services performed in Tennessee be subject to sales tax unless specifically exempted in this chapter.

(ii) With respect to services, other than telecommunication services, such services shall be considered to be performed in Tennessee if:

(a) Performed completely in Tennessee; or

(b) Performed partially in Tennessee and partially outside of Tennessee, when the recipient or user of the service is located in Tennessee; or

(c) Performed partially in Tennessee and partially outside of Tennessee, if the recipient or user of the service is not located in Tennessee, but only to the extent of those services actually performed in Tennessee; or

(d) The place of performance cannot be determined, if the recipient or user of the service is located in Tennessee.

(iii) With respect to services, other than telecommunication services, such services performed partially in Tennessee and partially outside of Tennessee shall be presumed to have been performed completely in Tennessee unless the taxpayer can show the place of performance by clear and cogent evidence.

SECTION 5. Tennessee Code Annotated, Section 67-6-102, is amended by deleting subdivision (D) of paragraph (30) in its entirety and substituting instead the following:

“Telecommunications” does not include television programming or television services delivered by a provider of direct-to-home satellite service.

SECTION 6. Tennessee Code Annotated, Section 67-6-205, is amended by adding the following new subsections:

( ) The crediting provisions of Sections 67-6-313(f) and 67-6-507(a) are specifically made applicable to the services described in Section 67-6-102(24)(F)(i), when all or part of the performance of those services takes place outside of Tennessee.

( ) The tax levied by this section does not apply to charges made by the state and its political subdivisions, when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot which is unattended and such charges are collected by parking meters.

( ) With respect to staff leasing companies, the tax levied by this section applies only to gross receipts as defined in Section 62-43-121.

( ) With respect to collection agencies, the tax levied by this section applies only to the administrative fees received by the collection agency from clients, rather than the gross collections made on behalf of clients.

SECTION 7. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f).

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following new section:

Section \_\_\_\_\_. Notwithstanding any other provision of law to the contrary, a portion of the revenue in an amount equal to one-half percent (0.5%) generated from any sale or use which is taxed at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202 shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the education trust fund and earmarked for education purposes as provided in §49-3-357.

SECTION 9. Tennessee Code Annotated, Section 67-6-202(a), is amended by adding the following after the words “at retail in this state”:

until July 1, 2003, at which time the rate shall be reduced to five and one-half percent (5.5%).

Tennessee Code Annotated, Section 67-6-202, is further amended by deleting subsection (b) in its entirety.

SECTION 10. Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the language "six percent (6%)" and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202".

Tennessee Code Annotated, Section 67-6-203, is further amended by deleting subsection (c) in its entirety.

SECTION 11. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202".

Tennessee Code Annotated, Section 67-6-204, is further amended by deleting subsection (d) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 67-6-205(a), is amended by adding the following after the words "under this chapter":

until July 1, 2003, at which time the rate shall be the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202.

Tennessee Code Annotated, Section 67-6-205, is further amended by deleting subsection (b) in its entirety.

SECTION 13. Tennessee Code Annotated, Section 67-6-206(b)(1), is amended by deleting the language "one percent (1%)" and "one and one-half percent (1.5%)" and substituting the language "four and one-half percent (4.5%)" in each place.

SECTION 14. Tennessee Code Annotated, Section 67-6-209, is amended by deleting the language therein in its entirety and substituting instead the following:

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, which the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, such person so using the tangible personal property shall pay the tax herein levied on the fair market value of such tangible personal property when used, without any deductions except as provided in this chapter; provided, that the foregoing shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property which becomes a component part of a building, and which is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor hereinafter defined as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a tax at the rate prescribed by Section 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid.

(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in Section 67-6-102(8).

SECTION 15. Tennessee Code Annotated, Section 67-4-506, is deleted in its entirety.

SECTION 16. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by deleting Sections 67-6-204(b), 67-6-216, 67-6-217, and 67-6-223 in their entirety.

SECTION 17. Tennessee Code Annotated, Section 67-6-301 is amended by deleting the language therein in its entirety and substituting instead the following:

The tax imposed by this chapter shall not apply to the direct product of the soil in the hands of the producer, and his immediate vendee.

SECTION 18. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new section:

Exempt from the tax imposed by this chapter are services performed by bona fide employees for their employers, to the extent their compensation is in the form of salary, commissions, or other compensation traditionally and normally provided to bona fide employees. Whether or not a person is a bona fide employee shall be determined based on the totality of the circumstances. Factors to be considered include, but are not limited to, whether the person paying the compensation reports employee compensation to the internal revenue service, whether the alleged employee is covered under workers' compensation laws, and whether the employer pays payroll taxes on account of its employment of the alleged employee.

SECTION 19. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by deleting Sections 67-6-309, and 67-6-311, in their entirety.

SECTION 20. Tennessee Code Annotated, Section 67-6-330, is amended by deleting subdivisions (a) (3), (4), (8), (10), (14), and (19), and by deleting subsection (b).

SECTION 21. Tennessee Code Annotated, Section 67-6-329, is amended by deleting subdivision (a) (22) in its entirety.

SECTION 22. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by deleting Sections 67-6-336, 67-6-349, 67-6-350, 67-6-351, and 67-6-354, in their entirety.

SECTION 23. Tennessee Code Annotated, Section 67-4-507, is repealed in its entirety.

SECTION 24. Tennessee Code Annotated, Section 67-6-212(a), is amended by adding the following language as a new, appropriately numbered subdivision:

( ) Charges made for operating any machine or device that is intended to provide the user any form of amusement, entertainment, music or game.

SECTION 25. Tennessee Code Annotated, Section 67-6-201, is amended by adding a new subdivision, as follows:

(11) Provides or engages in services not otherwise exempt from the sales and use tax pursuant to this chapter. Provided, however, that services taxable pursuant to the addition of services or removal of exemptions by this act, shall be a taxable privilege for state purposes only and shall not be permitted to be taxed under the provisions of the Local Option Revenue Act, Tennessee Code Annotated, Title 67, Chapter 7, Part 7.

SECTION 26. Sections 7 – 17 and 19 – 24 shall take effect July 1, 2002, the public welfare requiring it. Sections 1, 2, 3, 4, 5, 6, 18, and 25 shall take effect October 1, 2002, the public welfare requiring it. The commissioner of revenue is authorized to promulgate any necessary rules or regulations upon this act becoming law, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

Rep. Todd moved the previous question, which motion failed by the following vote:

Ayes .....	46
Noes .....	43
Present and not voting .....	3



WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY

Representatives voting aye were: Baird, Black, Boyer, Buck, Bunch, Buttry, Casada, Cole (Carter), Curtiss, Davidson, Ford, Goins, Hargett, Harwell, Head, Hood, Johnson, Kent, McCord, McDaniel, McDonald, McKee, McMillan, Montgomery, Newton, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Rinks, Rowland, Sargent, Scroggs, Shepard, Stanley, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Walker, Westmoreland, White, Whitson -- 46.

Representatives voting no were: Armstrong, Arriola, Beavers, Bowers, Briley, Brooks, Brown, Caldwell, Chumney, Clem, Cole (Dyer), Cooper, Davis (Washington), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Fowlkes, Garrett, Givens, Godsey, Hagood, Hargrove, Kisber, Langster, Lewis, Maddox, Miller, Mumpower, Odom, Rhinehart, Sands, Sharp, Shaw, Tidwell, Turner (Shelby), Vincent, West, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 43.

Representatives present and not voting were: Bone, Fraley, Kernell -- 3.

Rep. Odom moved that House Bill No. 2942 be reset for the Regular Calendar on June 19, 2002.

After further debate, Rep. Odom withdrew his motion to reset House Bill No. 2942.

Rep. Rhinehart moved the previous question, which motion prevailed by the following vote:

Ayes .....	66
Noes .....	24
Present and not voting .....	1

Representatives voting aye were: Arriola, Baird, Bittle, Bowers, Boyer, Brooks, Brown, Buck, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cooper, Curtiss, Davidson, Davis (Washington), DeBerry J, DeBerry L, Ford, Fowlkes, Fraley, Garrett, Godsey, Hargett, Harwell, Hood, Johnson, Kent, Langster, Lewis, McCord, McDaniel, McDonald, McKee, McMillan, Montgomery, Newton, Patton, Phelan, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tindell, Todd, Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Wood -- 66.

Representatives voting no were: Armstrong, Beavers, Black, Bone, Briley, Bunch, Cole (Dyer), Dunn, Ferguson, Fitzhugh, Givens, Goins, Hagood, Hargrove, Maddox, Miller, Mumpower, Odom, Overbey, Sands, Tidwell, Turner (Hamilton), Windle, Mr. Speaker Naifeh -- 24.

Representatives present and not voting were: Kernell -- 1.

Rep. Boyer moved that **House Bill No. 2942**, as amended, be passed on third and final consideration, which motion failed by the following vote:

Ayes .....	17
Noes .....	47
Present and not voting .....	32

## WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY

Representatives voting aye were: Baird, Black, Boyer, Clem, Curtiss, Hood, McCord, McDonald, McKee, Montgomery, Newton, Roach, Sharp, Shepard, Todd, Turner (Davidson), Winningham – 17.

Representatives voting no were: Armstrong, Arriola, Beavers, Bone, Brooks, Brown, Buttry, Casada, Chumney, Cole (Carter), Cole (Dyer), Cooper, Davidson, Davis (Washington), DeBerry L, Dunn, Ferguson, Fowlkes, Garrett, Givens, Goins, Hagood, Hargett, Hargrove, Harwell, Kent, Langster, Lewis, Miller, Mumpower, Odom, Overbey, Phelan, Pruitt, Ridgeway, Rowland, Shaw, Towns, Turner (Shelby), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Wood – 47.

Representatives present and not voting were: Bittle, Bowers, Briley, Buck, Bunch, Caldwell, DeBerry J, Fitzhugh, Ford, Fraley, Godsey, Head, Johnson, Jones U, Kernell, Kisber, Maddox, McDaniel, McMillan, Patton, Pinion, Pleasant, Rhinehart, Rinks, Sands, Sargent, Scroggs, Stanley, Tidwell, Tindell, Turner (Hamilton), Mr. Speaker Naifeh – 32.

House Bill No. 2942, having failed to receive a constitutional majority, was re-referred to the House Committee on Calendar and Rules.

**\*House Bill No. 3116** -- Budget Procedures - Authorizes general assembly to transfer funds from various reserve funds for use for other purposes. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 13; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 49; Title 54; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71. by \*Head. (SB3135 by \*Rochelle)

Rep. Kisber moved that House Bill No. 3116 be passed on third and final consideration.

Rep. Kisber requested that Finance, Ways and Means Committee Amendment No. 1 be placed at the heel of the Amendments.

Rep. Kisber moved adoption of Amendment No. 2 as follows:

### **Amendment No. 2**

AMEND House Bill No. 3116 by deleting all language after the enacting clause and by substituting instead the following language:

SECTION 1. (a) Notwithstanding any provision of law to the contrary, subject to the specific provisions of an appropriations act, the commissioner of finance and administration is authorized to deny carryforwards for, and to transfer funds from, the funds, reserve accounts or programs identified in subsection (c) to the state general fund for the sole purpose of meeting the requirements of funding the operations of state government for the fiscal year ending June 30, 2002. This authority shall not extend beyond transfers and denials of carryforwards necessary to close the fiscal year ending June 30, 2002.

(b) No funds shall be transferred unless specifically appropriated in an appropriations act and such funds shall only be expended in accordance with the provisions of such act.

(c) Transfers are authorized from the following funds, reserve accounts, and programs:

(1) Tennessee Housing Development Authority assets fund created or referenced in title 13, chapter 23, part 4;

(2) Criminal injuries compensation fund created or referenced in title 40, chapter 24, part 1;

(3) Parole and probation supervision and rehabilitation accumulated fees created or referenced in title 40, chapter 28, part 2;

(4) Department of correction work release supervision and rehabilitation accumulated fees created or referenced in title 40, chapter 28, part 2;

(5) Temporary assistance for needy families Families First program created or referenced in title 71, chapter 3, part 1;

(6) Department of safety computerized titling and registration system accumulated fees created or referenced in title 55, chapter 4, part 1;

(7) Wetland acquisition fund created or referenced in title 67, chapter 4, part 4;

(8) Wetland compensation fund created or referenced in title 11, chapter 14, part 4;

(9) Local parks land acquisition fund created or referenced in title 67, chapter 4, part 4;

(10) State lands acquisition fund created or referenced in title 67, chapter 4, part 4;

(11) State lands compensation fund created or referenced in title 11, chapter 14, part 4;

(12) Agriculture resources conservation fund created or referenced in title 67, chapter 4, part 4;

(13) Alcohol and drug addiction treatment fund created or referenced in title 40, chapter 33, part 2;

(14) Traumatic brain injury fund created or referenced in title 68, chapter 55, part 4;

(15) Finance and administration electronic fingerprint imaging systems fund created or referenced in title 67, chapter 4, part 6;

(16) Tennessee bureau of investigation finger print criminal history data base accumulated fees created or referenced in title 39, chapter 17, part 13;

(17) Tennessee bureau of investigation expunged criminal offender and pretrial diversion data base accumulated fees created or referenced in title 38, chapter 6, part 1 and title 40, chapter 32, part 1;

(18) Department of safety driver education fund created or referenced in title 67, chapter 4, part 6;

(19) Department of education driver education fund created or referenced in title 67, chapter 4, part 6;

(20) Motorcycle rider safety fund created or referenced in title 55, chapter 51, part 1;

(21) Sex offender treatment program created or referenced in title 39, chapter 13, part 7;

(22) Industries for the blind fund created or referenced in title 71, chapter 4, part 4;

(23) Voting machines loan fund created or referenced in title 2, chapter 9, part 1;

(24) Domestic violence community education fund created or referenced in title 36, chapter 3, part 6;

(25) Tennessee judicial information system fund created or referenced in title 16, chapter 3, part 8;

(26) Tennessee advisory commission on intergovernmental relations accumulated balances or carryover funds created or referenced in title 4, chapter 10, part 1;

(27) Safe schools program created or referenced in title 49, chapter 6, part 43;

(28) Special schools created or referenced in title 49, chapter 50, part 10;

(29) Notwithstanding § 54-2-102, § 54-2-103 or any other provision of law to the contrary, department of transportation funds in the highway fund, or other funds, created or referenced in titles 54, 55, 65 and 67;

(30) Fraud and economic crimes fund created or referenced in title 40, chapter 3, part 2;

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(31) Emergency communications fund created or referenced in title 7, chapter 86, part 1;

(32) Deferred revenue account created or referenced in title 65, chapter 1, part 2, and any other reserve fund maintained by the Tennessee regulatory authority;

(33) Wildlife resources fund created or referenced in title 70, chapter 1, part 4; and

(34) Wildlife management endowment fund created or referenced in title 70, chapter 1, part 5.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it, and shall be repealed on January 1, 2003, the public welfare requiring it.

Rep. Newton moved the previous question Amendment No. 2, which motion prevailed.

On motion, Amendment No. 2 was adopted.

On motion, Rep. Kisber withdrew Finance, Ways and Means Committee Amendment No. 1.

Rep. Newton moved the previous question, which motion prevailed.

Rep. Kisber moved that **House Bill No. 3116**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	77
Noes .....	17
Present and not voting .....	2

Representatives voting aye were: Armstrong, Arriola, Baird, Bittle, Black, Boyer, Briley, Buck, Buttry, Caldwell, Casada, Clem, Cole (Carter), Cooper, Davidson, Davis (Washington), DeBerry J, DeBerry L, Dunn, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Godsey, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Westmoreland, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 77.

Representatives voting no were: Beavers, Bone, Bowers, Brooks, Brown, Chumney, Curtiss, Davis (Cocke), Ferguson, Goins, Hagood, Kernell, Rowland, Stanley, Turner (Shelby), White, Whitson -- 17.

Representatives present and not voting were: Bunch, Givens -- 2.

A motion to reconsider was tabled.

**BILL RECALL**

Rep. Shepard requested that Senate Bill No. 2534 be recalled from the Senate, which motion prevailed.

**RESOLUTIONS**

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar for May 29, 2002:

**House Resolution No. 353** -- Memorials, Public Service - Robert A. Brown, Chairman of Board of Shelbyville Power, Water, and Sewerage System. by \*Phillips.

**House Resolution No. 354** -- Memorials, Retirement - Harold M. Arnold. by \*Phillips.

**House Resolution No. 355** -- Memorials, Professional Achievement - Carolyn Smith, Distinguished Teacher of the Year. by \*Newton.

**House Resolution No. 356** -- Memorials, Professional Achievement - Jane Latimer, Tennessee Teacher's Hall of Fame. by \*Rinks.

**House Resolution No. 357** -- Memorials, Recognition - City of Tullahoma Sesquicentennial Celebration. by \*Lewis, \*Fraleigh.

**House Resolution No. 358** -- Memorials, Retirement - Dr. A. Frank Glass. by \*Lewis, \*Fraleigh.

**House Resolution No. 359** -- Memorials, Retirement - Sandra Phillips. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 360** -- Memorials, Retirement - Crystal Brandon. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 361** -- Memorials, Retirement - Paula Kilgour. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 362** -- Memorials, Retirement - Faye Jones. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 363** -- Memorials, Retirement - Mary Woodard. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 364** -- Memorials, Retirement - Elaine Shirley. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 365** -- Memorials, Retirement - Marge Snowden. by \*Hood, \*Beavers, \*Rowland.

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**House Resolution No. 366** -- Memorials, Retirement - Nancy Walden. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 367** -- Memorials, Retirement - Anne Underhill. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 368** -- Memorials, Retirement - Nedra Wissinger. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 369** -- Memorials, Retirement - Betty Jones. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 370** -- Memorials, Retirement - Jim Wright. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 371** -- Memorials, Retirement - Mary Veals. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 372** -- Memorials, Retirement - Randall Chaudoin. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 373** -- Memorials, Retirement - Larry Pearson. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 374** -- Memorials, Retirement - Jerry Earp. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 375** -- Memorials, Heroism - Lieutenant Charles Rollins Ware and crew of USS Charles R. Ware (DD-865). by \*Odom.

**House Resolution No. 376** -- Memorials, Interns - Patrick LaRocco. by \*Naifeh.

**House Joint Resolution No. 1113** -- Memorials, Retirement - Gordon Worley. by \*Caldwell.

**House Joint Resolution No. 1114** -- Memorials, Interns - Brian Christopher Winfrey. by \*Buck, \*McMillan, \*Sands.

**House Joint Resolution No. 1115** -- Memorials, Recognition - F. Michael Holmes. by \*Fraleigh.

**House Joint Resolution No. 1116** -- Memorials, Recognition - J. Charles Wilson, Sr. by \*Cole (Dyer), \*Sargent, \*Casada.

**House Joint Resolution No. 1117** -- Memorials, Interns - Allison Joy Barry. by \*Davidson.

**House Joint Resolution No. 1118** -- Memorials, Interns - Joshua David Rawlinson. by \*Todd, \*Scroggs.

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**House Joint Resolution No. 1120** -- Memorials, Interns - Cynthia Rector. by \*McMillan.

**House Joint Resolution No. 1121** -- Memorials, Academic Achievement - Kelly Frances Slate. by \*McMillan.

**House Joint Resolution No. 1122** -- Memorials, Retirement - Ralph Moreno, Tennessee State Guard. by \*Patton.

**House Joint Resolution No. 1123** -- Memorials, Retirement - James Leffer. by \*Mumpower.

**House Joint Resolution No. 1124** -- Memorials, Academic Achievement - William C. Dixon, Valedictorian, Chattanooga Central High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1125** -- Memorials, Interns - Cheyenne Autumn Jennings. by \*Hargrove.

**House Joint Resolution No. 1126** -- Memorials, Interns - Melissa Skidmore. by \*West, \*Turner (Shelby).

**House Joint Resolution No. 1127** -- Memorials, Recognition - Reverend Al Anderson. by \*Sands.

### **SUPPLEMENTAL CONSENT CALENDAR**

**House Resolution No. 353** -- Memorials, Public Service - Robert A. Brown, Chairman of Board of Shelbyville Power, Water, and Sewerage System. by \*Phillips.

**House Resolution No. 354** -- Memorials, Retirement - Harold M. Arnold. by \*Phillips.

**House Resolution No. 355** -- Memorials, Professional Achievement - Carolyn Smith, Distinguished Teacher of the Year. by \*Newton.

**House Resolution No. 356** -- Memorials, Professional Achievement - Jane Latimer, Tennessee Teacher's Hall of Fame. by \*Rinks.

**House Resolution No. 357** -- Memorials, Recognition - City of Tullahoma Sesquicentennial Celebration. by \*Lewis, \*Fraleigh.

**House Resolution No. 358** -- Memorials, Retirement - Dr. A. Frank Glass. by \*Lewis, \*Fraleigh.

**House Resolution No. 359** -- Memorials, Retirement - Sandra Phillips. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 360** -- Memorials, Retirement - Crystal Brandon. by \*Hood, \*Beavers, \*Rowland.



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**House Resolution No. 361** -- Memorials, Retirement - Paula Kilgour. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 362** -- Memorials, Retirement - Faye Jones. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 363** -- Memorials, Retirement - Mary Woodard. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 364** -- Memorials, Retirement - Elaine Shirley. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 365** -- Memorials, Retirement - Marge Snowden. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 366** -- Memorials, Retirement - Nancy Walden. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 367** -- Memorials, Retirement - Anne Underhill. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 368** -- Memorials, Retirement - Nedra Wissinger. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 369** -- Memorials, Retirement - Betty Jones. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 370** -- Memorials, Retirement - Jim Wright. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 371** -- Memorials, Retirement - Mary Veals. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 372** -- Memorials, Retirement - Randall Chaudoin. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 373** -- Memorials, Retirement - Larry Pearson. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 374** -- Memorials, Retirement - Jerry Earp. by \*Hood, \*Beavers, \*Rowland.

**House Resolution No. 375** -- Memorials, Heroism - Lieutenant Charles Rollins Ware and crew of USS Charles R. Ware (DD-865). by \*Odom.

**House Resolution No. 376** -- Memorials, Interns - Patrick LaRocco. by \*Naifeh.

**House Joint Resolution No. 1113** -- Memorials, Retirement - Gordon Worley. by \*Caldwell.

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**House Joint Resolution No. 1114** -- Memorials, Interns - Brian Christopher Winfrey. by \*Buck, \*McMillan, \*Sands.

**House Joint Resolution No. 1115** -- Memorials, Recognition - F. Michael Holmes. by \*Fraleigh.

**House Joint Resolution No. 1116** -- Memorials, Recognition - J. Charles Wilson, Sr. by \*Cole (Dyer), \*Sargent, \*Casada.

**House Joint Resolution No. 1117** -- Memorials, Interns - Allison Joy Barry. by \*Davidson.

**House Joint Resolution No. 1118** -- Memorials, Interns - Joshua David Rawlinson. by \*Todd, \*Scroggs.

**House Joint Resolution No. 1120** -- Memorials, Interns - Cynthia Rector. by \*McMillan.

**House Joint Resolution No. 1121** -- Memorials, Academic Achievement - Kelly Frances Slate. by \*McMillan.

**House Joint Resolution No. 1122** -- Memorials, Retirement - Ralph Moreno, Tennessee State Guard. by \*Patton.

**House Joint Resolution No. 1123** -- Memorials, Retirement - James Lefler. by \*Mumpower.

**House Joint Resolution No. 1124** -- Memorials, Academic Achievement - William C. Dixon, Valedictorian, Chattanooga Central High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1125** -- Memorials, Interns - Cheyenne Autumn Jennings. by \*Hargrove.

**House Joint Resolution No. 1126** -- Memorials, Interns - Melissa Skidmore. by \*West, \*Turner (Shelby).

**House Joint Resolution No. 1127** -- Memorials, Recognition - Reverend Al Anderson. by \*Sands.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

### REGULAR CALENDAR, CONTINUED

**House Bill No. 1706** -- Education - Provides that maximum degree to be required for local director of vocational education is either masters degree in curriculum instruction or masters degree in supervision and administration. Amends TCA Title 49, Chapter 11, by \*Davis (Cocke). (\*SB1765 by \*Ramsey, \*Elsea)

On motion, House Bill No. 1706 was made to conform with **Senate Bill No. 1765**; the Senate Bill was substituted for the House Bill.

Rep. Davis (Cocke) moved that Senate Bill No. 1765 be passed on third and final consideration.

On motion, Rep. Winningham withdrew Education Committee Amendment No. 1.

Rep. Davis (Cocke) moved that **Senate Bill No. 1765** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	90
Noes .....	4
Present and not voting .....	2

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 90.

Representatives voting no were: Casada, Goins, Phelan, Turner (Shelby) -- 4.

Representatives present and not voting were: DeBerry L, Sharp -- 2.

A motion to reconsider was tabled.

**\*House Bill No. 3125** -- Gambling - Exempts pinball machines manufactured before 1980 from prohibition against gambling. Amends TCA Title 39, Chapter 17. by \*Armstrong. (SB3025 by \*Haun)

Further consideration of House Bill No. 3125 previously considered on today's Calendar.

Rep. Armstrong moved that House Bill No. 3125 be reset for the Regular Calendar on June 19, 2002, which motion prevailed.

**Senate Bill No. 3139** -- Safety, Dept. of - Requires department to review driver license application and examination provisions in view of increased homeland security and report findings and recommendations to House Transportation Committees. Amends TCA Title 55, Chapter 50, Part 3. by \*Herron, \*Trail. (\*HB3186 by \*Maddox, \*Odom, \*Shepard, \*Turner (Davidson), \*Jones, S., \*Cole (Dyer), \*Harwell, \*Hood, \*Bowers)

Further consideration of Senate Bill No. 3139 previously considered on today's Calendar.

Rep. Maddox moved that Senate Bill No. 3139 be passed on third and final consideration.

Rep. Odom moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND Senate Bill No. 3139 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-321(c), is amended by deleting subdivision (1)(B) in its entirety and by substituting instead the following:

(1)(B) Any applicant who does not have, or who states that the applicant has never been issued, a social security number required by subdivision (c)(1)(A) shall complete an affidavit, under penalty of perjury, affirming that the applicant has never been issued a social security number and shall submit either an original or certified copy of one (1) of the following:

(i) A birth certificate issued by Tennessee, another state or a possession, territory or commonwealth of the United States; or

(ii) Documentation issued by the United States immigration and naturalization service authorizing the applicant to be in the United States.

SECTION 2. Tennessee Code Annotated, Section 55-50-336(a), is amended by adding the following language as a new, appropriately designated subdivision:

(3) Notwithstanding any provision of law to the contrary, every applicant for a photo identification license shall provide a social security number, a birth certificate issued in accordance with § 55-50-321(c)(1)(B)(i), or documentation issued by the immigration and naturalization service authorizing the applicant to be in the United States.

SECTION 3. The commissioner of safety is authorized to promulgate rules and regulations to effectuate the provisions of this act.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Kernell moved the previous question on Amendment No. 2, which motion prevailed.

On motion, Amendment No. 2 was adopted.

Rep. Odom moved adoption of Amendment No. 3 as follows:

**Amendment No. 3**

AMEND Senate Bill No. 3139 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, Amendment No. 3 was adopted.

Rep. Maddox moved that **Senate Bill No. 3139**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	87
Noes .....	7

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Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Fitzhugh, Ford, Fraley, Garrett, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Kent, Kisber, Langster, Lewis, Maddox, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Shaw, Shepard, Stanley, Tidwell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 87.

Representatives voting no were: Givens, Head, Kernell, McCord, Sharp, Turner (Davidson), Westmoreland -- 7.

A motion to reconsider was tabled.

**\*House Bill No. 2286** -- TennCare - Requires comptroller's annual actuarial study to address provider reimbursement rates issues. Amends TCA Title 71, Chapter 5, by \*Kisber. (SB2624 by \*Cooper J)

Further consideration of House Bill No. 2286 previously considered on today's Calendar at which time the House adopted Amendment(s) No(s). 3, 4, 5 and was on the motion to adopt Amendment(s) No(s). 6.

Rep. McMillan moved that House Bill No. 2286, as amended, be passed on third and final consideration.

Rep. Bunch moved that Amendment No. 6 be withdrawn, which motion prevailed.

Rep. Sands moved adoption of Amendment No. 7 as follows:

**Amendment No. 7**

AMEND House Bill No. 2286 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 71-5-106, is amended by adding the following as a new subsection to be appropriately designated:

( ) For an individual to be eligible for benefits in the expansion population of the TennCare waiver, or its successor programs, the individual must be a bona fide resident of Tennessee. For the purposes of this subsection only, an individual is a bona fide resident of Tennessee only if the individual possesses a verifiable residential address within this state and has been a resident of this state for a period of one (1) year before application to the program.

AND FURTHER AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, Amendment No. 7 was adopted.

Rep. Shepard moved adoption of Amendment No. 8 as follows:

**Amendment No. 8**

AMEND House Bill No. 2286 by deleting the amendatory items (B) and (C) from Section 3(b)(2) of the bill as amended and by substituting the following language:

(B) extend coverage to potential new enrollees, or categories thereof, at current, higher or lower income levels;

(C) withdraw coverage from all enrollees not eligible for Medicaid; or,

(D) reimburse medical care providers for costs unreimbursed by managed care organizations.

On motion, Amendment No. 8 was adopted.

Rep. Buck moved that Amendment No. 1 be withdrawn, which motion prevailed.

On motion, Rep. Kisber withdrew Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2.

Rep. Newton moved the previous question, which motion prevailed.

Rep. Kisber moved that **House Bill No. 2286**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....98  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**\*House Bill No. 2789** -- Budget Procedures - Requires comparison of projected state tax revenue and proposed expenditure of state tax revenue to be included in budget proposal, as well as 10-year historical data on state tax revenue and expenditures. Amends TCA Title 4, Chapter 3 and Title 9, Chapter 4. by \*Fitzhugh, \*McMillan, \*White, \*Hood, \*Maddox, \*Sands, \*Bone, \*Shepard, \*Briley. (SB2919 by \*Clabough)

Rep. Fitzhugh moved that House Bill No. 2789 be passed on third and final consideration.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 2789 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, is amended by creating the following new, appropriately designated part:

9-4-5601. This part shall be known and may be cited as the "Tennessee Governmental Accountability Act of 2002."

9-4-5602. The general assembly finds and declares that accountability in program performance is vital to effective and efficient delivery of governmental services, and to maintain public confidence and trust in government. To maximize accountability, a system of strategic planning, performance-based budgeting, and performance audits should be implemented to measure the effectiveness and efficiency of governmental services. It is of paramount public importance that this system encourages full and candid participation by all agencies of state government. This system will generate information necessary for the public to be informed fully and for the general assembly to make meaningful decisions about the allocation of scarce resources in meeting vital needs.

9-4-5603. The strategic planning, performance-based budgeting, and performance review requirements of this part shall apply to all state departments, agencies, boards and commissions.

9-4-5604. For purposes of this part, the following terms shall have the following meaning unless the context requires otherwise:



(1) "Agency" or "state agency" means any unit of organization of the executive department, including any official, officer, department, board, commission, division, bureau, section, district, office, authority, committee, or council or any other unit of government, however designated, including, without limitation, higher education. For purposes of this act, "agency" or "state agency" shall not include the judicial department or the legislative department.

(2) "Baseline data" means indicators of a state agency's current performance level, pursuant to guidelines established jointly by the executive office of the governor and the commission, subject to approval by the general assembly.

(3) "Commission" means the commission on governmental accountability established in this part.

(4) "Outcome" means an indicator of the actual impact or public benefit of a program.

(5) "Output" means the actual service or product delivered by a state agency.

(6) "Performance-based program budget" means a budget that incorporates approved programs and performance measures.

(7) "Performance measure" means a quantitative or qualitative indicator used to assess state agency performance.

(8) "Program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives.

(9) "Standard" means the level of performance of an outcome or output.

9-4-5605. (a) A commission on governmental accountability is hereby established consisting of the comptroller of the treasury, the director of the office of legislative budget analysis, the director of the fiscal review committee, and the commissioner of finance and administration. The members of the commission shall elect a chairperson to serve for a one (1) year term. The chair of the commission shall rotate and the person holding each office represented on the commission shall serve as chairperson once during each four (4) year period.

(b)(1) The commission shall perform duties assigned to it under this part. The members of the commission shall utilize their existing staff in performing such duties.

(2) The executive office of the governor and state agencies shall perform duties assigned to them under this part using existing resources. It is the legislative intent that the requirements of the Tennessee Governmental Accountability Act of 2002 constitute a new approach to the budgeting, planning, and accountability process, rather than an addition to existing procedures.

(c) The commission shall have authority to employ outside consultants and entities with expertise in governmental finance and performance review for the purpose of conducting performance reviews or otherwise fulfilling its duties under this part. The performance reviews required under this part may be conducted by a private entity selected by the commission subject to the competitive bidding requirements of title 4, chapter 12.

9-4-5606. (a) The executive office of the governor and the commission, after discussion with the senate and house finance, ways and means committees and the appropriate substantive committees, shall jointly develop instructions for the development of performance measures for each program on the list approved as provided in Section 9-4-5103(b) and shall submit such instructions to the state agencies prior to December 1 of the fiscal year preceding the fiscal year in which a state agency is required to submit a performance-based program budget request.

(b) Prior to June 1 each year, each state agency subject to performance-based budgeting is required to submit to the executive office of the governor and the commission a strategic plan and proposed performance measures for each program on the approved list required pursuant to Section 9-4-5103(b). Such state agencies shall also identify the outputs produced by each approved program, the outcomes resulting from each approved program, and baseline data associated with each performance measure. Performance measures shall be reviewed by the executive office of the governor and the commission, after discussion with the senate and house finance, ways and means committees, the appropriate standing committees, and the commission, revised as necessary, and approved or disapproved within thirty (30) days of receipt.

(c) Notwithstanding the programs, performance measures, and standards requested in the budget document submitted pursuant to Section 9-4-5106, the general assembly shall have final approval of all strategic plans, performance measures and standards through the appropriations act and shall have discretion in the appropriations act, consistent with otherwise applicable requirements of general law and the constitution of Tennessee, to increase, reduce, eliminate, or otherwise alter the appropriation to a state agency based upon such agency's compliance with its performance measures and standards.

(d) Each state agency subject to performance-based budgeting shall submit documentation to the executive office of the governor and the commission regarding the validity, reliability, and appropriateness of each performance measure. In addition, each state agency shall indicate how the strategic plan and the performance measures are used in management decision-making and other agency processes.

(e)(1) Annually, no later than forty-five (45) days after the general appropriations act becomes law, state agencies may submit to the executive office of the governor and the commission any adjustments to their performance standards based on the amounts appropriated for each program by the general assembly.

(2) At any time during the fiscal year in which a state agency, by restraining order, injunction, consent decree, settlement, or any final judgment of a court of competent jurisdiction, is required to modify its operations, or the state agency receives additional federal or other funding, the state agency may submit to the executive office of the governor and the commission any adjustments to its performance standards required by such court order, consent decree, settlement, or additional funding.

(3) When such adjustment is made pursuant to subdivisions (1) and (2), all performance standards, including any adjustments made, shall be submitted to and reviewed and revised as necessary jointly by the executive office of the governor and the commission. The executive office of the governor and the commission shall jointly maintain the official record of adjustments to the performance standards.

(f) A state agency subject to performance-based budgeting shall not have the authority to amend or establish programs or performance measures but may propose a revision to the list of its approved programs or performance measures.

9-4-5607. The commission shall develop a schedule for including state agencies within performance-based budgeting and review, beginning with three (3) agencies selected for fiscal year 2003-2004. All agencies of state government shall be included in performance-based budgeting and review not later than fiscal year 2010-2011.

9-4-5608. (a) The commission shall at least annually, and more frequently if necessary, evaluate each state agency's compliance with its strategic plan and performance-based measures and shall report to the senate and house finance, ways and means committees, the appropriate substantive committees, and the executive office of the governor concerning each agency's compliance with its strategic plan and performance-based measures. Such reports shall include comments from the state agency. Such reports shall be timely furnished, and updated if necessary, for use by the senate and house finance, ways and means committees in consideration of the appropriations act.

(b) The commission's report as to each state agency's compliance may contain recommendations to the senate and house finance, ways and means committees concerning the following non-exhaustive performance measure incentives or disincentives for potential inclusion in the appropriations bill:

(1) Incentives may include, but are not limited to:

(A) Additional flexibility in budget management;

(B) Additional flexibility in salary rate and position management, notwithstanding the provisions of Title 8, Chapter 23, or any other law to the contrary;

(C) Retention of up to fifty percent (50%) of unexpended and unencumbered balances of appropriations, excluding special categories and grants and aids, that may be used for non-recurring purposes including, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements; and

(D) Additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements.

(2) Disincentives may include, but are not limited to:

(A) Mandatory quarterly reports to the executive office of the governor and the commission, posted on the state of Tennessee's website, on the agency's progress in meeting performance standards;

(B) Mandatory quarterly appearances before the general assembly, the commission, the governor, or the governor and cabinet to report on the agency's progress in meeting performance standards;

(C) Elimination or restructuring of the program, which may include, but not be limited to, transfer of the program or outsourcing all or a portion of the program;

(D) Reduction of total positions for a program;

(E) Restriction on or reduction of the appropriation for the program; and

(F) Reduction of managerial salaries, notwithstanding the requirements of Title 8, Chapter 23, or any other law to the contrary.

9-4-5609. (a) In the fiscal year beginning July 1, 2002, and each year thereafter, each state agency shall prepare a strategic plan for delivering the services and achieving the objectives required of it under the laws of the state of Tennessee and any federal program in which the state of Tennessee participates. The strategic plan shall include, but not be limited to, the following matters:

- (1) The statutory and constitutional objectives of the entity;
- (2) Identification of the scope of services the entity is required to provide and the best means of providing such services;
- (3) Identification of any optional services the entity may provide, resources permitting and the best means of providing such services;
- (4) Means of maximizing federal or other non-state sources of revenue;
- (5) Means of avoiding unnecessary costs and expenditures;
- (6) Means of addressing any change in objectives or services since the previous strategic plan;
- (7) Obstacles to meeting objectives and delivering services;
- (8) Means of overcoming such obstacles; and
- (9) Future challenges and opportunities.

(b)(1)(A) Each state agency shall submit its draft plan to the commissioner of the department, who shall prepare a single comprehensive plan for each department. Independent agencies, boards and commissions shall submit their draft plans to the commissioner of finance and administration.

(B) The comptroller of the treasury, state treasurer, secretary of state, and attorney general shall prepare their plans separately.

(C) The administrative office of the courts shall prepare a plan on behalf of the court system. Such plan shall include the district attorneys general conference and the district public defenders conference.

(D) The joint legislative services committee shall prepare a plan on behalf of the legislative department.

(2) Each strategic plan shall be submitted to the general assembly and the governor not later than September 1 of each year and shall cover the fiscal year in effect as of the date of the report.

9-4-5610. (a) Each state agency shall be subject to a performance review of its activities as determined by the commission.

(b) The performance review shall include such matters as the entity performing the review deems appropriate related to the manner in which the entity is delivering its services and achieving its objectives, including but not limited to:

(1) The efficient use of all state and federal resources and user fees;

(2) Additional non-state revenue or cost savings that the entity could achieve; and

(3) The extent to which the entity has achieved the objectives of its strategic plan.

(c) Each entity subject to a performance review shall cooperate fully with the performance reviewers and shall timely provide all relevant documents and requested information. If any entity refuses to provide any requested documents or information, the performance reviewers shall include such refusal in its report, as well as the reasons given by the entity for not furnishing the documents or information.

9-4-5611. (a) Notwithstanding the provisions of subsection (c) of this section, to achieve full and candid participation in the planning and audit process, no strategic plan or performance review, or any information generated solely for or by any such plan or review, shall be admissible in any judicial proceeding or administrative hearing.

(b) Any documents or information referenced in any such plan or audit that exist independent of the planning and review process shall not be subject to the prohibition of subsection (a). The admissibility of such documents and information shall be determined in accordance with the rules of evidence and standards otherwise applicable to any such proceeding.

(c) Each strategic plan and performance review shall be a public record under the provisions of Title 10, Chapter 7.

9-4-5612. Not later than June 30, 2003, the director of the office of legislative administration shall develop and submit to the joint legislative services committee proposed instructions for the development of performance measures for the legislative department in accordance with the criteria established in Section 9-4-5103(b)(2). The joint legislative services committee shall review such proposed instructions and may revise or amend the proposed instructions. After approval of the proposed instructions, the joint legislative services committee shall forward such proposed instructions to the commission for review and comment. The commission shall review such proposed instructions and forward comments to the joint legislative services committee and the director of the office of legislative administration. After reviewing such comments, the joint legislative services committee shall adopt final instructions for the development of such performance measures.

9-4-5613. Not later than June 30, 2003, the judicial department, acting through the administrative office of the courts, shall identify and submit to the general assembly a list of programs that the administrative office of the courts recommends could operate under a performance-based program budget under the criteria established in Section 9-4-5103(b)(2). By January 1, 2004, the administrative office of the courts shall submit to the general assembly performance measures and standards for such programs. Notwithstanding any other provisions of this act, the general assembly, in consultation with the judicial branch, may develop statutory procedures for evaluating the effectiveness of such programs.

9-4-5614. Notwithstanding any law to the contrary, no funds shall be transferred within or between state agencies or departments to compensate, directly or indirectly, for any incentives or disincentives in the appropriations bill, or any other funding increase or reduction, relative to performance-based budgeting.

SECTION 2. Tennessee Code Annotated, Section 9-4-5103, is amended by deleting that section in its entirety and by substituting instead the following new language:

(a) On or before December 1 of each year, all departments, offices, and agencies of the state government shall prepare, in a written or electronic format determined by the commissioner of finance and administration, and submit to such officer, estimates of their expenditure requirements for the next fiscal year compared with the corresponding figures of the last completed fiscal year and estimated figures for the current fiscal year. The expenditure estimates shall be classified to set forth the data by funds, organization units, character and objects of expenditure; the organization units may be subclassified by function and activities, or in any other manner at the discretion of the commissioner. Any state agency subject to performance-based budgeting requirements under subsection (b) shall include with its submission a listing of its proposed state agency programs as approved by the governor under subsection (b).

(b)(1) Prior to October 15 preceding the fiscal year in which a state agency is required to submit a performance-based program budget request, such state agency shall identify and submit to the executive office of the governor a proposed strategic plan and a list of proposed state agency programs. Such identification shall be conducted after discussion with the commission on governmental accountability. The governor shall, after discussion with the senate and house finance, ways and means committees and the commission on governmental accountability, review the plan and list and make any changes or modifications within thirty (30) days of receipt. The plan and list, as approved by the governor, shall be used in complying with the requirements of subsection (a).

(2) The following documentation shall accompany the list of proposed programs submitted by the state agency:

(A) Identification of the customers, clients, and users of each program;

(B) The purpose of each program or the benefit derived by the customers, clients, and users of the program;

(C) Direct and indirect costs of each program;

(D) All sources of funding for each program, broken down into federal dollars, state tax revenue, fees, and other specifically identified sources;

(E) Information on fees collected and the adequacy of those fees in funding each program for which the fees are collected;

(F) An assessment of whether each program is conducive to performance-based budgeting; and

(G) An assessment of the time needed to develop meaningful performance measures for each program.

SECTION 3. Tennessee Code Annotated, Section 9-4-5106, is amended by adding the following new subsection:

(c) The budget document shall include a performance-based program budget for all state agencies subject to performance-based budgeting.

SECTION 4. Tennessee Code Annotated, Section 9-4-5108, is amended by adding the following new subsections:



(e) For programs operating under performance-based program budgets, the appropriations bill shall contain summary information that covers specific appropriations and summarizes programs and performance.

(f) Notwithstanding the provisions of Title 8, Chapter 23, or any other law to the contrary, the appropriations bill may specify incentives or disincentives relative to performance-based budgeting as recommended by the commission on governmental accountability. The general assembly is not limited to the recommendations of the commission in incorporating such incentives and disincentives in the appropriations bill.

SECTION 5. This act shall not take effect unless funding is specifically provided in an appropriations act.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. Todd moved the previous question, which motion was immediately withdrawn.

Rep. Brooks moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 2789 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section \_\_\_\_\_. No expenditure of public funds pursuant to this act shall be made in violation of the provisions of Title VI of the Civil Rights Act of 1964, as codified in 42 United States Code 2000(d).

On motion, Amendment No. 2 was adopted.

Rep. Todd moved the previous question, which motion prevailed.

Rep. Fitzhugh moved that **House Bill No. 2789**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

## WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**\*House Bill No. 253** -- Budget Procedures - Creates performance-based budget review pilot project. Amends TCA Title 9, Chapter 4 and Title 13, Chapter 5. by \*Scroggs, \*Kisber, \*Kent. (SB1504 by \*Rochelle)

Further consideration of House Bill No. 253 previously considered on today's Calendar.

### BILL RE-REFERRED

Rep. Scroggs moved that House Bill No. 253 be re-referred to the House Calendar and Rules Committee, which motion prevailed.

### RULES SUSPENDED

Rep. Davidson moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 1132 out of order, which motion prevailed.

**House Joint Resolution No. 1132** -- General Assembly, Recess & Reconvene - Recesses general assembly from close of business on Wednesday, May 29, 2002, to Wednesday, June 19, 2002. by \*Davidson, \*McDaniel.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Davidson, and seconded by Rep. McDaniel, the resolution was adopted.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE MESSAGE

**\*House Bill No. 102** -- Estates - Increases from five to ten days time period in which to mail copies of filed exceptions on clerk's decisions to personal representative and attorney of record. Amends TCA Title 30. by \*Odom, \*Buck, \*McMillan, \*Winningham. (SB439 by \*Haynes)

BILL RE-REFERRED

Rep. Buck moved that House Bill No. 102 be re-referred to the House Calendar and Rules Committee, which motion prevailed.

HOUSE ACTION ON SENATE AMENDMENTS

**House Bill No. 1106** -- Funeral Directors and Embalmers - Exempts sale of funeral merchandise from practice of funeral directing; requires funeral director to disclose certain information concerning sale of funeral merchandise. Amends TCA Title 62, Chapter 5. by \*Lewis, \*Odom, \*Garrett, \*Givens, \*Ferguson. (\*SB181 by \*Graves, \*Burchett, \*Miller J)

Senate Amendment No. 1

AMEND House Bill No. 1106 by deleting all of the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-5-101, is amended by adding the following new appropriately designated subsections:

(\_) "Authorizing Agent(s)" means a person or persons legally entitled to authorize the cremation of a dead human body or body parts. This term shall not include a funeral director or funeral establishment.

(\_) "Cremation" means the heating process by which a human body or body parts are reduced to bone fragments through combustion and evaporation.

(\_) "Crematory" means the building or portion of a building that houses one (1) or more cremation chambers used for the reduction of body parts or bodies of deceased persons to cremated remains and the holding facility. "Crematory" includes crematorium.

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 5, Part 1, is amended by adding the following language as a new appropriately designated sections:

SECTION \_\_\_\_\_. (a) A funeral director shall utilize the services only of licensed crematory facilities.

(b) If a funeral director utilizes the services of a crematory outside of Tennessee, the crematory must be a licensed facility of the state in which such crematory is located.

(c) Prior to utilizing a crematory, the funeral director shall:

(1) Determine that the crematory is currently licensed in Tennessee or, if an out-of-state crematory, the state in which it is located;

(2) Obtain and maintain a copy of such crematory's current license and further maintain a copy of the results of the latest regularly scheduled inspection of the crematory by the state in which the facility is located, if such state inspects crematories; and

(3) Deliver a written disclosure to the Authorizing Agent or Agents. Such written disclosure shall, at a minimum:

(A) Include the name, telephone number, and address of the in-state or out-of-state crematory;

(B) Provide for the specific consent of the Authorizing Agent or Agents for the use of such in-state or out-of-state crematory;

(C) Be signed and dated by the funeral director and the Authorizing Agent or Agents; and

(D) Be retained by the Tennessee funeral director at a licensed Tennessee funeral establishment, with a copy provided to the Authorizing Agent or Agents.

(d) Notwithstanding the provisions of §62-5-103, a violation for each use of an unlicensed crematory pursuant to this section shall be punishable only as provided by § 62-5-317, § 56-1-308 and any rules promulgated thereunder.

(e)(1) The funeral director shall not be liable for damages in a civil action for any error, inaccuracy or omission of any information delivered pursuant to this section if:

(A) The error, inaccuracy or omission was based upon information provided by public agencies or by other individuals or entities providing information that is required to be disclosed pursuant to this section; and

(B) The funeral director was not grossly negligent in obtaining the information from a third party and transmitting such information as required under this section.

(2) It is an affirmative defense in any such civil action that the funeral director complied with the requirements of this section upon submitting to the court copies of the signed consent form and the license and inspection results of the in-state or out-of-state crematory used by the funeral director for the cremation of the dead human body or body parts which is the subject of the civil action.

SECTION \_\_\_\_\_. Any vehicle which transports a dead human body or body parts from a funeral establishment in this state to a crematory shall display a copy of the crematory's current license in the vehicle in such a way as to be visible from the outside of such vehicle during the time such body or body parts are in the vehicle.

This requirement is solely to provide notice to the funeral establishment that the dead human body or body parts are being released to the proper parties for the cremation of such body or body parts and no criminal penalty shall apply if the license is not so displayed.

SECTION 3. Tennessee Code Annotated, 62-5-317(b), is amended by adding the following language as a new appropriately designated paragraph:

( ) Failure to comply with any of the provisions of this chapter or any rule or regulation promulgated or adopted by the board.

SECTION 4. For the purpose of promulgating rules and regulations including any public necessity rules, this act shall take effect upon becoming law. For all other purposes it shall take effect July 1, 2002 the public welfare requiring it.

#### **Senate Amendment No. 1 to 1**

AMEND House Bill No. 1106 By deleting the following language from the new Section added in Section 2, as amended:

Any vehicle which transports a dead human body or body parts from a funeral establishment in this state to a crematory shall display a copy of the crematory's current license in the vehicle in such a way as to be visible from the outside of such vehicle during the time such body or body parts are in the vehicle.

and by substituting instead the following language:

Any vehicle which transports a dead human body or body parts from a funeral establishment in this state to a crematory, other than a vehicle that is owned or operated by a funeral establishment and has the name of the funeral establishment on the outside of the vehicle, shall display a copy of the crematory's current license in the vehicle in such a way as to be visible from the outside of such vehicle during the time such body or body parts are in the vehicle.

Rep. Lewis moved that the House concur in Senate Amendment(s) No(s). 1 as amended to **House Bill No. 1106**, which motion prevailed by the following vote:

Ayes .....97  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

#### HOUSE ACTION ON SENATE MESSAGE

**\*House Bill No. 1416** -- Auctions and Auctioneers - Increases timing of deadline from 24 hours to 48 hours prior to auction when auctioneer must, upon request, furnish to chief of police or sheriff list of all properties to be sold. by \*Rinks, \*McDaniel. (SB1694 by \*Clabough, \*Atchley)

On motion, House Bill No. 1416 was reset for the Message Calendar on June 19, 2002, which motion prevailed.

#### HOUSE ACTION ON SENATE MESSAGE

**\*House Bill No. 2093** -- Solid Waste Disposal - Requires senator and member of house who represent county where landfill or hazardous waste facility is to be located to be notified at least 30 days prior to date department of environment and conservation plans to issue permit for such landfill or facility. Amends TCA Title 68, Chapter 211; Title 68, Chapter 212 and Title 68, Chapter 213. by \*Turner (Davidson). (SB2207 by \*Haynes)

Rep. U. Jones moved that House Bill No. 2093 be reset for the Message Calendar on June 19, 2002, which motion prevailed.

HOUSE ACTION ON SENATE AMENDMENTS

**\*House Bill No. 2827** – Education, Dept. of - Requires commissioner to promulgate rules regarding timely release of education data for research purposes and to appoint task force regarding such rules composed of one representative each from University of Tennessee, board of regents, and office of education accountability; grants office of education accountability access to confidential student records. by \*Winningham. (SB2969 by \*McNally)

**Senate Amendment No. 1**

AMEND House Bill No. 2827 by deleting all the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, Part 2, is amended by adding the following language as a new section:

49-1-218. (a) The commissioner of education shall establish guidelines regarding the timely and responsible release of education data for research purposes.

(b) In establishing such guidelines, the commissioner shall assemble a task force which shall be composed of the commissioner or the commissioner's designee, the chair of the higher education commission or the chair's designee, the chair of the state board of education or the chair's designee, the comptroller of the treasury or the comptroller's designee, one person appointed by the chair of the education committee of the house of representatives and one person appointed by the chair of the education committee of the senate. No individual with a direct financial interest in the use of education data may serve on the task force.

(c) The task force shall report its findings to the select oversight committee on education no later than December 1, 2002. The guidelines will be further submitted to the house and senate education committees by January 15, 2003.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Winningham moved that the House concur in Senate Amendment(s) No(s). 1 to **House Bill No. 2827**, which motion prevailed by the following vote:

Ayes .....	96
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

### **HOUSE ACTION ON SENATE AMENDMENTS**

**House Bill No. 2672** -- Taxes, Real Property - Provides that portion of property tax allocated to education cannot be subject to rebate, remission, or abatement. Amends TCA Title 7, Chapters 53 through 67, Title 13, Chapters 20 through 23, and Title 67, Chapter 5. by \*Jones U (Shelby). (\*SB2282 by \*Dixon)

#### **Senate Amendment No. 1**

AMEND House Bill No. 2672 by deleting all language after the enacting clause and by substituting instead the following:

#### **SECTION 1.**

(a) The Tennessee Advisory Commission on Intergovernmental Relations ("TACIR") is directed to perform a study of the overall effect on local public education when property taxes or in lieu of tax payments earmarked for education are abated or reduced and whether the effect on local public education is offset by enhanced economic development. This study shall be conducted from TACIR's existing resources.

(b) All appropriate state departments and agencies shall provide assistance to TACIR.

(c) TACIR shall report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study.

**SECTION 2.** Tennessee Code Annotated, Section 13-20-104, is amended by adding the following new, appropriately designated subsection:

( )



(1) Except in any county having a metropolitan form of government with a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, the city or county for which a housing authority is created may delegate to such housing authority the authority to negotiate and accept from the housing authority's lessees payments in lieu of ad valorem taxes; provided, that such authorization shall be granted only upon a finding that such payments are deemed to be in furtherance of the housing authority's public purposes. The housing authority shall submit each such agreement to the city or county legislative body of all affected taxing jurisdictions for its approval.

(2) An agreement for payment in lieu of taxes shall contain such terms and conditions as the housing authority may determine, which may include, but shall not be limited to, provisions to:

(A) Defer and/or subordinate payment of all or a portion of the payment in lieu of taxes to such future time as the housing authority may determine;

(B) Require interest to accrue on such deferred amount;

(C) Require that payments in lieu of taxes, including any interest, expenses, or costs of collection of same, shall be secured by a deed of trust upon the project; or

(D) Provide that such deed of trust may be subordinate to other liens or indebtedness of the project.

(3) Before October 1 of each year, the housing authority shall submit to the state board of equalization an annual report containing a list of all the real and personal property owned by the housing authority and its associated entities and subsidiaries with respect to which payments in lieu of ad valorem taxes have been negotiated and accepted; the value of each listed property, as estimated by the lessee of the property; the date and term of the lease for each listed property; the amount of payments made in lieu of property taxes for each listed property; the date each listed property is scheduled to return to the regular tax rolls; and a calculation of the taxes which would have been due for each listed property if the properties were privately owned or otherwise subject to taxation. Each lessee of the housing authority shall be responsible for the timely completion and filing of the report, and failure to timely complete and file the report shall subject such lessees to a penalty equivalent to that applicable to similar lessees of industrial development corporations; provided, that no lessee shall be liable who has provided the state board of equalization information required by this section as may be pertinent to property leased by the lessee from the housing authority.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.

**Senate Amendment No. 2**

AMEND House Bill No. 2672 by deleting subdivision (1) of the amendatory language in Section 2 of the bill, as amended, and substituting instead the following:

(1) "Low-income housing tax credit (LIHTC) property" means low-income housing property restricted under government regulations pursuant to Section 42 of the Internal Revenue Code of 1986 as amended (the Low-Income Housing Tax Credit program).

AND FURTHER AMEND by deleting subdivision (2) of the amendatory language in Section 2 of the bill, as amended, and substituting the following:

(2) Except in any county having a metropolitan form of government with a population in excess of five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census, upon the affirmative vote of a majority of the members of its governing body, the city or county for which a housing authority is created may delegate to such housing authority the authority to negotiate and accept payments in lieu of ad valorem taxes from the housing authority's lessees operating LIHTC property; provided, that such authorization shall be granted only upon a finding that such payments are deemed to be in furtherance of the housing authority's public purposes. The housing authority shall submit each such agreement to the city or county legislative body of all affected taxing jurisdictions for approval.

**Senate Amendment No. 3**

AMEND House Bill No. 2672 by deleting the language "the housing authority shall submit" in the amendatory language of subitem 3 of Section 2 of the bill, as amended, and by substituting instead the language "a housing authority to which authority to negotiate payments in lieu of taxes has been delegated by a city or county shall submit".

Rep. U. Jones moved that the House concur in Senate Amendment(s) No(s). 1, 2 and 3 to **House Bill No. 2672**, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

### HOUSE ACTION ON SENATE AMENDMENTS

**\*House Bill No. 2915** -- Transportation, Dept. of - Rewrites notice provisions regarding department removing personal property encroachments on highway right-of-ways. by \*Stanley. (SB2963 by \*Haun)

#### Senate Amendment No. 2

AMEND House Bill No. 2915 By adding the following language to the end of subsection (a)(3) of the amendatory language of Section 1 of the bill as amended:

If the department receives actual notice that such an encroachment presents a hazard to those traveling on the adjacent roadway, the department shall, if the owner's name and address can be ascertained by reasonable inquiry, notify the owner of the property and instruct such property owner to remove the encroachment immediately. Such notice shall be sent by certified mail, return receipt requested. After notice, or if unable to locate the owner's name and address after reasonably inquiry, the department may remove the encroachment pursuant to subdivision (1).

Rep. Stanley moved that the House concur in Senate Amendment(s) No(s). 2 to **House Bill No. 2915**, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**MESSAGE FROM THE SENATE**  
**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2534, as requested.

RUSSELL A. HUMPHREY, Chief Clerk.

**MOTION TO RECONSIDER**

Rep. Shepard moved to lift from the table the motion to reconsider action in passing Senate Bill No. 2534, which motion prevailed.

**Senate Bill No. 2534** -- Controlled Substances - Enacts "Controlled Substance Monitoring Act of 2002." Amends TCA Title 53, Chapter 10. by \*McNally, \*Crowe, \*Henry, \*Rochelle, \*Carter. (\*HB2450 by \*Shepard, \*Tidwell, \*Black, \*Caldwell)

Rep. Shepard moved to reconsider action in passing Senate Bill No. 2534, which motion prevailed.

On motion, Rep. Buck reconsidered action in adopting Amendment(s) No(s). 5. On motion, Amendment(s) No(s). 5 was withdrawn.

On motion, Rep. Buck reconsidered action in adopting Amendment(s) No(s). 6. On motion, Amendment(s) No(s). 6 was withdrawn.

Rep. Shepard moved that Amendment No. 7 be withdrawn, which motion prevailed.

Rep. Shepard moved that **Senate Bill No. 2534**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	70
Noes .....	19
Present and not voting .....	7

## WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY

Representatives voting aye were: Armstrong, Arriola, Baird, Black, Bone, Bowers, Briley, Brooks, Brown, Buck, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Fitzhugh, Fowlkes, Fraley, Garrett, Givens, Goins, Hagood, Hargett, Hargrove, Harwell, Hood, Johnson, Jones U, Kernell, Langster, Lewis, Maddox, McDaniel, McDonald, McKee, McMillan, Miller, Mumpower, Newton, Overbey, Phelan, Phillips, Pinion, Pruitt, Rinks, Rowland, Shaw, Shepard, Stanley, Tidwell, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 70.

Representatives voting no were: Beavers, Bittle, Cole (Carter), Dunn, Ferguson, Godsey, Kent, McCord, Montgomery, Pleasant, Rhinehart, Roach, Sands, Sargent, Scroggs, Sharp, Todd, West, Westmoreland -- 19.

Representatives present and not voting were: Boyer, Bunch, Ford, Head, Kisber, Odom, Patton -- 7.

A motion to reconsider was tabled.

### MOTION TO RECONSIDER

Rep. Bowers moved to lift from the table the motion to reconsider action in passing House Bill No. 2258, which motion prevailed.

**\*House Bill No. 2258** -- Foster Care - Extends current relative caregiver program through 2004 and expands pilot program to include Knox and Hamilton counties. Amends TCA Section 71-3-136. by \*Bowers. (SB2654 by \*Dixon, \*Henry)

Rep. Bowers moved to reconsider action in passing House Bill No. 2258, which motion prevailed.

Rep. Bowers moved that the House nonconcur in Senate Amendment(s) No(s). 1 to **House Bill No. 2258**, which motion prevailed.

### UNFINISHED BUSINESS

### INTRODUCTION OF BILLS

On motion, of Rep. Davidson, the following bills were introduced and passed first consideration:

**House Bill No. 3293** -- Lebanon - Subject to local approval, revises charter. Amends Chapter 644 of the Private Acts of 1911; as amended. by \*Bone.

**House Bill No. 3294** -- Madison County - Subject to local approval, transfers clerk duties for probate cases from juvenile court clerk to clerk and master. Amends Chapter 212 of the Private Acts of 1990 and Chapter 50 of the Private Acts of 1941; as amended. by \*Kisber, \*Shaw.

**BILLS WITHDRAWN**

On motion of Rep. Todd, **House Bill No. 3000** was recalled from the State and Local Government Committee and withdrawn from the House.

On motion of Rep. Todd, **House Bill No. 3004** was recalled from the Finance, Ways and Means Committee and withdrawn from the House.

**RESOLUTIONS**

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar No. 2 for May 29, 2002:

**House Resolution No. 378** -- Memorials, Professional Achievement - Alex Coleman. by \*Miller L.

**House Resolution No. 379** -- Memorials, Recognition - Glenda O'Connor. by \*Hargett.

**House Resolution No. 380** -- Memorials, Interns - Christie Carringer. by \*Dunn.

**House Resolution No. 381** -- Memorials, Recognition - Impact Family Center. by \*Brown.

**House Joint Resolution No. 1128** -- Memorials, Congratulations - Regina A. Bell. by \*Cole (Dyer).

**House Joint Resolution No. 1129** -- Memorials, Recognition - Lucille Hardiman, National Outstanding ABE/GED Adult Learner. by \*Overbey, \*McCord.

**House Joint Resolution No. 1130** -- Memorials, Personal Achievement - Irene McCrary, Residential Beautification Award. by \*Dunn.

**House Joint Resolution No. 1131** -- Memorials, Interns - Jennifer LeAnn Brown. by \*Winningham, \*Brown, \*Towns.

**SENATE JOINT RESOLUTIONS  
(Congratulatory and Memorializing)**

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Supplemental Consent Calendar No. 2 for May 29, 2002:

**Senate Joint Resolution No. 812** -- Memorials, Recognition - Rebecca Lynch Ferrar. by \*Rochelle.

**Senate Joint Resolution No. 837** -- Memorials, Public Service - Lola Woolridge. by \*Jackson.

## **WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 838** -- Memorials, Interns - Jenica Shiri Curd. by \*Kurita.

**Senate Joint Resolution No. 839** -- Memorials, Interns - Bethany Schree Tramel. by \*Haynes.

**Senate Joint Resolution No. 840** -- Memorials, Academic Achievement - Tara Renee Newsom, Salutatorian, Gleason High School. by \*Herron.

**Senate Joint Resolution No. 841** -- Memorials, Academic Achievement - Kristi Renae Todd, Valedictorian, Gleason High School. by \*Herron.

**Senate Joint Resolution No. 842** -- Memorials, Academic Achievement - Savannah Lynn Grooms, Salutatorian, Greenfield High School. by \*Herron.

**Senate Joint Resolution No. 843** -- Memorials, Academic Achievement - Lindsey Brooke Box, Valedictorian, Greenfield High School. by \*Herron.

**Senate Joint Resolution No. 844** -- Memorials, Academic Achievement - Toria Argo, Salutatorian, Westview High School. by \*Herron.

**Senate Joint Resolution No. 845** -- Memorials, Academic Achievement - Adleen Crapo, Valedictorian, Westview High School. by \*Herron.

**Senate Joint Resolution No. 846** -- Memorials, Academic Achievement - T. J. Rehmer, Salutatorian, Union City High School. by \*Herron.

**Senate Joint Resolution No. 847** -- Memorials, Academic Achievement - Amber Nicole Becton, Valedictorian, Union City High School. by \*Herron.

**Senate Joint Resolution No. 848** -- Memorials, Academic Achievement - Toni Marie Little, Valedictorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 849** -- Memorials, Academic Achievement - Kimberly Michelle Lindsey, Salutatorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 850** -- Memorials, Academic Achievement - Hannah Leigh Vise, Valedictorian, Riverside High School. by \*Herron.

**Senate Joint Resolution No. 851** -- Memorials, Academic Achievement - Rachel Jean Haggard, Salutatorian, Decatur County Riverside High School. by \*Herron.

## **SUPPLEMENTAL CONSENT CALENDAR NO. 2**

**House Resolution No. 378** -- Memorials, Professional Achievement - Alex Coleman. by \*Miller L.

**House Resolution No. 379** -- Memorials, Recognition - Glenda O'Connor. by \*Hargett.

**WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY**

**House Resolution No. 380** -- Memorials, Interns - Christie Carringer. by \*Dunn.

**House Resolution No. 381** -- Memorials, Recognition - Impact Family Center. by \*Brown.

**House Joint Resolution No. 1128** -- Memorials, Congratulations - Regina A. Bell. by \*Cole (Dyer).

**House Joint Resolution No. 1129** -- Memorials, Recognition - Lucille Hardiman, National Outstanding ABE/GED Adult Learner. by \*Overbey, \*McCord.

**House Joint Resolution No. 1130** -- Memorials, Personal Achievement - Irene McCrary, Residential Beautification Award. by \*Dunn.

**House Joint Resolution No. 1131** -- Memorials, Interns - Jennifer LeAnn Brown. by \*Winningham, \*Brown, \*Towns.

**Senate Joint Resolution No. 812** -- Memorials, Recognition - Rebecca Lynch Ferrar. by \*Rochelle.

**Senate Joint Resolution No. 837** -- Memorials, Public Service - Lola Woolridge. by \*Jackson.

**Senate Joint Resolution No. 838** -- Memorials, Interns - Jenica Shiri Curd. by \*Kurita.

**Senate Joint Resolution No. 839** -- Memorials, Interns - Bethany Schree Tramel. by \*Haynes.

**Senate Joint Resolution No. 840** -- Memorials, Academic Achievement - Tara Renee Newsom, Salutatorian, Gleason High School. by \*Herron.

**Senate Joint Resolution No. 841** -- Memorials, Academic Achievement - Kristi Renae Todd, Valedictorian, Gleason High School. by \*Herron.

**Senate Joint Resolution No. 842** -- Memorials, Academic Achievement - Savannah Lynn Grooms, Salutatorian, Greenfield High School. by \*Herron.

**Senate Joint Resolution No. 843** -- Memorials, Academic Achievement - Lindsey Brooke Box, Valedictorian, Greenfield High School. by \*Herron.

**Senate Joint Resolution No. 844** -- Memorials, Academic Achievement - Toria Argo, Salutatorian, Westview High School. by \*Herron.

**Senate Joint Resolution No. 845** -- Memorials, Academic Achievement - Adleen Crapo, Valedictorian, Westview High School. by \*Herron.

**Senate Joint Resolution No. 846** -- Memorials, Academic Achievement - T. J. Rehmert, Salutatorian, Union City High School. by \*Herron.

**Senate Joint Resolution No. 847** -- Memorials, Academic Achievement - Amber Nicole Becton, Valedictorian, Union City High School. by \*Herron.



**Senate Joint Resolution No. 848** -- Memorials, Academic Achievement - Toni Marie Little, Valedictorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 849** -- Memorials, Academic Achievement - Kimberly Michelle Lindsey, Salutatorian, Scotts Hill High School. by \*Herron.

**Senate Joint Resolution No. 850** -- Memorials, Academic Achievement - Hannah Leigh Vise, Valedictorian, Riverside High School. by \*Herron.

**Senate Joint Resolution No. 851** -- Memorials, Academic Achievement - Rachel Jean Haggard, Salutatorian, Decatur County Riverside High School. by \*Herron.

Rep. Miller moved that all members voting aye on House Resolution No. 378 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar No. 2 be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar No. 2 be concurred in, which motion prevailed by the following vote:

Ayes .....	97
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

#### SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Bill No. 1617:** Rep(s). Maddox as prime sponsor(s).

**ENROLLED BILLS**

**May 29, 2002**

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared House Resolution(s) No(s). 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 378, 379, 380 and 381; and find same correctly enrolled and ready for the signature of the Speaker.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED**

**May 29, 2002**

The Speaker signed the following: House Resolution(s) No(s). 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 378, 379, 380 and 381.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 646, 3285, also, House Joint Resolution(s) No(s). 1112.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 3051.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR**

**May 29, 2002**

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 2484, 2546, 2570, 2623, 2747, 2750, 2889, 3043, 3148 and 3267, with his approval.

JAY BALLARD, Counsel to the Governor.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 970.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3252, 3269, 3273, 3274, 3275, 3279 and 3280; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 121, 672 and 862; all concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3051; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2106; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2364.

The Senate nonconcurred in House Amendment(s) No(s). 3.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2412.

The Senate nonconcurred in House Amendment(s) No(s). 3.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2457.

The Senate nonconcurred in House Amendment(s) No(s). 1.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2599.

The Senate concurred in House Amendment(s) No(s). 2 and nonconcurred in House Amendment(s) No(s). 3.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1113, 1114, 1115, 1116, 1117, 1118, 1120, 1121, 1122, 1123, 1124, 1125, 1126 and 1127.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 3116.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1123; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1128, 1129, 1130 and 1131.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 29, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1132.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1132; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1102, 1103, 1104, 1107, 1108, 1109, 1110, 1111 and 1112; all concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2476.

The Senate refused to recede from its action in adopting Amendment(s) No(s). 1.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2596.

The Senate adopted the Conference Committee Report and made it the action of the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill No. 1434.

The Senate lifted the tabling motion, reconsidered passage of the bill, reconsidered adoption of Amendment No. 3, withdrew Amendment No. 3 and repassed the bill on third and final consideration.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 29, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 623, 808, 809, 811, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 832, 833, 834 and 836; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED**

**May 29, 2002**

The Speaker signed the following: Senate Joint Resolution(s) No(s). 623, 808, 809, 811, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 832, 833, 834 and 836.

**CONSENT CALENDAR**

**May 29, 2002**

The following local bills have been placed on the Consent Calendar for **June 19, 2002**: House Bill(s) No(s). 3289, 3286, 3292 and 3284.

**ROLL CALL**

The roll call was taken with the following results:

Present.....94

## **WEDNESDAY, MAY 29, 2002 – EIGHTY-NINTH LEGISLATIVE DAY**

Representatives present were: Armstrong, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Winningham, Wood, Mr. Speaker Naifeh -- 94.

### **RECESS MOTION**

On motion of Rep. Davidson, and pursuant to House Joint Resolution No. 1132, the House stood in recess until 10:00 a.m., Wednesday, June 19, 2002.